
Department of the Treasury



Fiscal Service, Bureau of the Public Debt

**31 CFR Part 357 - Regulations Governing Book-Entry
Treasury Bonds, Notes and Bills Held in Legacy Treasury Direct®**

**Department of the Treasury Circular,
Public Debt Series No. 2-86**

As of July 2005

Amendment 1 dated September 30, 2005

Amendment 2 dated September 30, 2005

Department of the Treasury



Fiscal Service, Bureau of the Public Debt

Amendments to:

**31 CFR Part 356 - Sale and Issue of
Marketable Book-Entry Treasury Bills,
Notes, and Bonds**

**Department of the Treasury Circular,
Public Debt Series No. 1-93**

**31 CFR Part 357 - Regulations Governing
Book-Entry Treasury Bonds, Notes and Bills
Held in Legacy Treasury Direct®**

**Department of the Treasury Circular,
Public Debt Series No. 2-86**

**31 CFR Part 363
Regulations Governing Securities Held in
TreasuryDirect®**

Amended September 30, 2005

DEPARTMENT OF THE TREASURY**Fiscal Service****31 CFR Parts 356, 357, and 363**

[Docket No. BPD-CC-05-2]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (Department of the Treasury Circular, Public Debt Series No. 1-93); Regulations Governing Book-Entry Treasury Bonds, Notes and Bills Held in Legacy Treasury Direct®; Regulations Governing Securities Held in TreasuryDirect®

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: TreasuryDirect is an account-based, book-entry, online system for purchasing, holding, and conducting transactions in Treasury securities. To date, the system has only been available for the purchase and holding of savings bonds and certificates of indebtedness. The Department of the Treasury (hereinafter referred to as “Treasury” or “We”) is amending Regulations Governing Securities Held in TreasuryDirect to add marketable Treasury securities to the securities that may be purchased and held in TreasuryDirect and to provide the terms and conditions for marketable Treasury securities held in the system. We are amending Regulations Governing Book-Entry Treasury Bonds, Notes and Bills Held in Legacy Treasury Direct to provide for the transfer of securities between Legacy Treasury Direct and TreasuryDirect. We are also amending the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds to make the changes necessary to

accommodate participation in Treasury marketable securities auctions for securities to be held in either the TreasuryDirect or the Legacy Treasury Direct® system. We are also eliminating the ability to bid competitively through Legacy Treasury Direct. These final amendments benefit individual investors by allowing them to purchase, hold and conduct transactions in marketable Treasury securities through the TreasuryDirect system.

DATES: Effective Date: September 30, 2005.

ADDRESSES: You can download this final rule at the following Internet addresses: <http://www.publicdebt.treas.gov> or <http://www.gpoaccess.gov/ecfr>.

FOR FURTHER INFORMATION CONTACT:

Elisha Whipkey, Director, Division of Program Administration, Office of Securities Operations, Bureau of the Public Debt, at (304) 480-6319 or elisha.whipkey@bpd.treas.gov for information on the TreasuryDirect and Legacy Treasury Direct systems.

Chuck Andreatta, Associate Director, Government Securities Regulations Staff, Bureau of the Public Debt, at (202) 504-3632 or govsecreg@bpd.treas.gov for information on Treasury marketable securities auction rules (31 CFR part 356).

Susan Klimas, Attorney-Adviser, Dean Adams, Assistant Chief Counsel, Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480-8692 or susan.klimas@bpd.treas.gov for information on regulations governing TreasuryDirect and Legacy Treasury Direct (31 CFR parts 357 and 363).

SUPPLEMENTARY INFORMATION:

TreasuryDirect® is an account-based, online, book-entry system for purchasing, holding, and conducting transactions in Treasury securities. Currently, book-entry Series EE and Series I savings bonds and certificates of indebtedness are offered for purchase. In addition, definitive savings bonds may be converted to book-entry savings bonds through TreasuryDirect and held in the system. We are issuing this amendment to 31 CFR parts 363, 357, and 356 to provide for the purchase and holding of marketable Treasury securities in TreasuryDirect.

31 CFR Part 363. We are amending 31 CFR part 363, Regulations Governing Securities Held in TreasuryDirect, to add marketable Treasury securities to the securities that may be held in the

TreasuryDirect system.¹ The previous subpart F is redesignated as subpart H, and a new subpart F has been added to address the unique terms and conditions for holding marketable Treasury securities in TreasuryDirect. The provisions in subpart B, which apply to all securities held in TreasuryDirect, will apply to marketable Treasury securities as well. Therefore, the current provisions in subpart B relating to rules of the system, registrations, administrative and judicial proceedings, and decedents' estates, that are applicable to all securities in TreasuryDirect, will apply to marketable Treasury securities.

A TreasuryDirect account owner can submit a noncompetitive bid for eligible marketable Treasury securities online through his or her account. Marketable Treasury securities that are eligible for purchase through a TreasuryDirect account are those that are available for purchase through the TreasuryDirect Web site. Any registration provided in subpart B for securities held in TreasuryDirect is available for marketable Treasury securities.

Upon the purchase of a marketable Treasury security, there will be a period of 45 calendar days after the issue date of the security, or the term of the security, whichever is less, during which the security may not be transferred. This holding period is to prevent a loss to Treasury in the event of a returned or unauthorized debit. In addition, and for a similar reason, we are amending subpart D, relating to certificates of indebtedness, to provide for a holding period of 5 business days after a debit entry for the purchase of a certificate of indebtedness. During this holding period the certificate of indebtedness may only be redeemed to purchase a new security and may not be redeemed for cash.

This final rule provides for the transfer of marketable Treasury securities among the commercial book-entry system, the Legacy Treasury Direct system, and the TreasuryDirect system. Online transfers available for marketable

Treasury securities are transfers between TreasuryDirect accounts, transfers to other book-entry systems, and transfers to our agent for sale on the open market (Sell Direct), in increments of \$1000. Any eligible marketable book-entry Treasury bill, note, or bond may be transferred into and held in a TreasuryDirect account.

Under the provisions of this amendment, an account owner may reinvest a matured security held in TreasuryDirect by directing that the redemption proceeds of the security be used to purchase a certificate of indebtedness, and then using the redemption proceeds of the certificate of indebtedness to purchase a new marketable Treasury security.

The process in TreasuryDirect for handling undeliverable payments of either principal or interest will benefit both investors and Treasury. Undeliverable proceeds will be used to purchase a certificate of indebtedness in the name of the account owner. The account owner can then directly access the certificate of indebtedness online through the account, rather than having to contact Treasury to make arrangements for delivery of the payment.

A four-business day closed book period will be in effect prior to the date a marketable security payment is made. This means that certain transactions made during the closed book period will be delayed until after the closed book period is completed and the payment is made.

31 CFR Part 357. We are amending 31 CFR part 357, Regulations Governing Book-Entry Treasury Bonds, Notes and Bills Held in Legacy Treasury Direct, to provide that marketable Treasury securities may be transferred between Legacy Treasury Direct and TreasuryDirect.

31 CFR Part 356. 31 CFR part 356, also referred to as the Uniform Offering Circular (UOC), sets out the terms and conditions for the sale and issuance to the public of marketable Treasury bills, notes, and bonds. The UOC, in conjunction with offering announcements, represents a comprehensive statement of those terms and conditions.²

This amendment makes changes to the UOC to allow bidders to bid for marketable Treasury securities to be issued in either the TreasuryDirect or

¹ The governing regulations for the TreasuryDirect system, 31 CFR part 363, were originally published as a final rule October 17, 2002 (67 FR 64275). The regulations were subsequently amended May 8, 2003 (68 FR 24793); January 16, 2004 (69 FR 2506); August 16, 2004 (69 FR 50307); March 23, 2005 (70 FR 14940); and September 30, 2005. The TreasuryDirect system was first referred to as New Treasury Direct to distinguish it from an older system for holding book-entry Treasury bills, notes and bonds directly with Treasury, also known as TreasuryDirect. The regulations for the older system are found at 31 CFR part 357. The name of the newer system was changed in the most recent amendment to the TreasuryDirect regulations, and at the same time the name of the older system was changed to Legacy Treasury Direct.

² The Uniform Offering Circular was published as a final rule on January 5, 1993 (58 FR 411). The circular, as amended, is codified at 31 CFR part 356. A final rule converting the UOC to plain language and making certain other minor changes was published in the **Federal Register** on July 28, 2004 (69 FR 45202).

Legacy Treasury Direct direct-holding systems. The amendment accommodates the differences between the systems, such as the methods of payment. The amendment makes one substantive change, described below, which is that competitive bidding will no longer be allowed for securities to be held in Legacy Treasury Direct.

Competitive bidding will not be allowed for securities to be held in either the new TreasuryDirect system or in Legacy Treasury Direct. Although competitive bidding has been allowed since Legacy Treasury Direct was first implemented in 1986, our experience has been that the volume of such bids has been so low that it does not justify continuing to provide the service. Accordingly, § 356.12 has been amended to stipulate that it will not be a feature of either system going forward.

Procedural Requirements

This final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

Because this final rule relates to matters of public contract and procedures for United States securities, notice and public procedure and delayed effective date requirements are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects

31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

31 CFR Part 357

Banks, Banking, Bonds, Electronic funds transfers, Government securities, Reporting and recordkeeping requirements.

31 CFR Part 363

Bonds, Electronic funds transfer, Federal Reserve system, Government securities, Securities.

■ Accordingly, for the reasons set out in the preamble, 31 CFR chapter II, subchapter B, is amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

■ 1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102 et seq.; 12 U.S.C. 391.

■ 2. Amend part 356 by revising "TreasuryDirect" or "Legacy Treasury Direct" to read "TreasuryDirect®" or "Legacy Treasury Direct®" the first time they appear in each section or section heading in the part.

■ 3. Section 356.2 is amended by revising the definitions of "Autocharge agreement," "Book-entry security," "Security" and "TreasuryDirect," and by adding in alphabetical order the definitions of "Certificate of indebtedness" and "Legacy Treasury Direct" to read as follows:

§ 356.2 What definitions do I need to know to understand this part?

* * * * *

Autocharge agreement means an agreement in a format acceptable to Treasury between a submitter or clearing corporation and a depository institution that authorizes us to:

- (1) Deliver awarded securities to:
 - (i) The book-entry securities account of a designated depository institution in the commercial book-entry system, or
 - (ii) An account in Legacy Treasury Direct, and
- (2) Charge a funds account of a designated depository institution for the settlement amount of the securities.

* * * * *

Book-entry security means a security that is issued and maintained as an accounting entry or electronic record in either the commercial book-entry system or in one of Treasury's two direct-hold systems—TreasuryDirect or Legacy Treasury Direct. (See § 356.4.)

* * * * *

Certificate of indebtedness means a one-day non-interest-bearing security that may be held in TreasuryDirect and that automatically matures and is rolled over each day until its owner requests that it be redeemed.

* * * * *

Legacy Treasury Direct means a non-Internet-based book-entry system maintained by Treasury for purchasing and holding marketable Treasury securities directly with Treasury. (See 31 CFR part 357.)

* * * * *

Security means a Treasury bill, note, or bond, each as described in this part.

Security also means any other obligation we issue that is subject to this part according to its auction announcement. Security includes an interest or principal component under the STRIPS program, as well as a certificate of indebtedness in an investor's TreasuryDirect account.

* * * * *

TreasuryDirect means the book-entry, online system maintained by Treasury for purchasing and holding marketable Treasury securities, nonmarketable savings bonds, and certificates of indebtedness directly with Treasury. (See 31 CFR part 363.)

* * * * *

■ 4. Section 356.4 is amended by revising the introductory text and paragraph (b), and by adding a new paragraph (c) to read as follows:

§ 356.4 What are the book-entry systems in which auctioned Treasury securities may be issued?

There are three book-entry securities systems—the commercial book-entry system, TreasuryDirect, and Legacy Treasury Direct—into which we issue marketable Treasury securities. We maintain and transfer securities in these three book-entry systems at their par amount. Par amounts of Treasury inflation-protected securities do not include adjustments for inflation. Securities may be transferred from one system to the other. See Department of the Treasury Circular, Public Debt Series No. 2–86, as amended (31 CFR part 357) and 31 CFR part 363.

* * * * *

(b) *TreasuryDirect*. In this system, account holders maintain accounts in a book-entry, online system directly on the records of the Bureau of the Public Debt, Department of the Treasury. Bids for securities to be held in TreasuryDirect are submitted through the Internet.

(c) *Legacy Treasury Direct*. In this system, we maintain the book-entry securities of account holders directly on the records of the Bureau of the Public Debt, Department of the Treasury. Bids for securities to be held in Legacy Treasury Direct are generally submitted directly to us, although such bids may also be forwarded to us by a depository institution or dealer.

■ 5. Section 356.5 is amended by revising the introductory text to read as follows:

§ 356.5 What types of securities does the Treasury auction?

We offer securities under this part exclusively in book-entry form and as direct obligations of the United States

issued under Chapter 31 of Title 31 of the United States Code. The securities are subject to the terms and conditions in this part, the regulations in 31 CFR part 363 (for securities held in TreasuryDirect), the regulations in 31 CFR part 357 (for securities held in the commercial book-entry system and Legacy Treasury Direct), and the auction announcements. When we issue additional securities with the same CUSIP number as outstanding securities, we consider them to be the same securities as the outstanding securities.

* * * * *

■ 6. Section 356.11 is amended by revising the first sentence of paragraph (a)(1), by revising paragraph (c), and by adding a new paragraph (d) to read as follows:

§ 356.11 How are bids submitted in an auction?

(a) *General.* (1) All bids must be submitted using an approved method, which depends on whether you are requesting us to issue the awarded securities in the commercial book-entry system, in TreasuryDirect, or in Legacy Treasury Direct (See § 356.4). * * *

* * * * *

(c) *TreasuryDirect.* You must submit your bids through your established book-entry, online TreasuryDirect account. You may reinvest the proceeds of maturing securities held in TreasuryDirect by directing that the proceeds be used to purchase a certificate of indebtedness in your TreasuryDirect account and by using the proceeds of your certificate of indebtedness to pay for the securities.

(d) *Legacy Treasury Direct.* (1) If you are a submitter and the awarded securities are to be issued in Legacy Treasury Direct, you may submit bids by using one of our approved methods, *e.g.*, computer, automated telephone service, or paper forms. You may also reinvest the proceeds of maturing securities into new securities through the same methods.

(2) If you are submitting bids by paper form, you must use forms authorized by the Bureau of the Public Debt and provide the requested information. We have the option of accepting or rejecting bids on any other form. You are responsible for ensuring that we receive bids in paper form on time. A noncompetitive bid is on time if:

(i) We receive it on or before the issue date, and

(ii) The envelope it arrived in bears evidence, such as a U.S. Postal Service cancellation, that it was mailed prior to the auction date.

(3) If you are submitting a bid by computer or automated telephone service you must be an established Legacy Treasury Direct account holder with a Taxpayer Identification Number.

(4) In contingency situations, such as a power outage, we may accept bids by other means, provided, that in all cases the bids are submitted prior to the relevant bidding deadline by an established Legacy Treasury Direct account holder.

■ 7. Section 356.12 is amended by revising paragraphs (b)(1) and (c)(3) to read as follows:

§ 356.12 What are the different types of bids and do they have specific requirements or restrictions?

* * * * *

(b) *Noncompetitive bids.* (1) *Maximum bid.* You may not bid noncompetitively for more than \$5 million. The maximum bid limitation does not apply if you are bidding solely through either a TreasuryDirect or a Legacy Treasury Direct reinvestment request. A request for reinvestment of securities maturing in either TreasuryDirect or Legacy Treasury Direct is a noncompetitive bid.

* * * * *

(c) * * *
(3) *Additional restrictions.* You may not bid competitively in an auction in which you are bidding noncompetitively. You may not bid competitively for securities to be bought through either TreasuryDirect or Legacy Treasury Direct.

■ 8. Section 356.17 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, adding new paragraph (b) and revising newly redesignated paragraphs (c) and (d) to read as follows:

§ 356.17 How and when do I pay for securities awarded in an auction?

* * * * *

(b) *TreasuryDirect.* You must pay for your awarded securities by a debit entry to a deposit account that you are authorized to debit or by using the redemption proceeds of your certificate of indebtedness held in your TreasuryDirect account. Payment by debit entry occurs on the settlement date for the actual settlement amount due. (See § 356.25.)

(c) *Legacy Treasury Direct.* Unless you make other provisions, you must pay by debit entry to a deposit account that you are authorized to debit or submit payment with your bids. Payment by debit entry occurs on the settlement date for the actual settlement amount due. (See § 356.25.) If you are paying with a check or with maturing

securities, you must pay separately for any premium, accrued interest, or inflation adjustment as soon as you receive your Payment Due Notice.

(1) *Bidding and payment by computer or by telephone.* If you are bidding by computer or by telephone, you must pay for any securities awarded to you by debit entry to a deposit account. If a depository institution or dealer is submitting your bids for securities to be held in Legacy Treasury Direct, payment may be either by debit entry to a deposit account or by allowing us to charge the Federal Reserve Bank funds account of a depository institution.

(2) *Bidding and payment by paper form.* If you are mailing bids to us on a paper form, you may either enclose your payment with the form or pay for any securities awarded to you by debit entry to a deposit account. For bills, you may pay by depository institution (cashier's or teller's) check, certified check, or currently dated Treasury or fiscal agency check made payable to you. For notes or bonds, in addition to the payment options for bills, you may also pay by personal check. If you submit a personal check, make it payable to Legacy Treasury Direct and mail it with the bid to the Federal Reserve Bank handling your account. In your payment amount you must include the par amount and any announced accrued interest and/or inflation adjustment.

(3) *Payment by maturing securities.* You may use maturing securities held in Legacy Treasury Direct as payment for reinvestments into new securities that we are offering, as long as we receive the appropriate transaction request on time.

(d) *Commercial book-entry system.* Unless you make other provisions, payment of the settlement amount must be by charge to the funds account of a depository institution at a Federal Reserve Bank.

■ 9. Section 356.22 is amended by revising paragraph (a) to read as follows:

§ 356.22 Does the Treasury have any limitations on auction awards?

(a) *Awards to noncompetitive bidders.* The maximum award to any noncompetitive bidder is \$5 million. This limit does not apply to bidders bidding solely through TreasuryDirect or Legacy Treasury Direct reinvestment requests.

* * * * *

■ 10. Section 356.25 is amended by revising paragraphs (a) and (b), redesignating paragraph (c) as paragraph (d), adding a new paragraph (c), and revising newly redesignated paragraph (d) to read as follows:

§ 356.25 How does the settlement process work?

* * * *

(a) *Payment by debit entry to a deposit account.* If you are paying by debit entry to a deposit account as provided for in § 356.17 (b) and (c), we will charge the settlement amount to the specified account on the issue date.

(b) *Payment by authorized charge to a funds account.* Where the submitter's method of payment is an authorized charge to the funds account of a depository institution as provided for in § 356.17 (c)(1) and (d), we will charge the settlement amount to the specified funds account on the issue date.

(c) *Payment through a certificate of indebtedness.* If you are paying with the redemption proceeds of your certificate of indebtedness as provided for in § 356.17(b), we will redeem the certificate of indebtedness for the settlement amount of the security and apply the proceeds on the issue date.

(d) *Payment with bids.* If you paid the par amount with your bids as provided for in § 356.17 (c)(2), you may have to pay an additional amount, or we may have to pay an amount to you, as follows:

(1) *When we owe an amount to you.* If the amount you paid is more than the settlement amount, we will refund the balance to you after the auction. This will generally occur if you submit payment with your bids. A typical example would be an auction where the price is a discount from par and there is no accrued interest.

(2) *When you must remit an additional amount.* If the settlement amount is more than the amount you paid, we will notify you of the additional amount due. You may owe us such an additional amount if the auction calculations result in a premium or if accrued interest or an inflation adjustment is due. If your securities are to be held in TreasuryDirect, we will collect this amount through the same payment method that you previously authorized for the transaction. If your securities are to be held in Legacy Treasury Direct, you will be responsible for remitting this additional amount immediately.

■ 11. Section 356.30 is amended by redesignating current paragraph (c)(2) as paragraph (c)(3) and by adding a new paragraph (c)(2) and revising newly redesignated paragraph (c)(3) to read as follows:

§ 356.30 When does the Treasury pay principal and interest on securities?

* * * *

(c) * * *

(2) *TreasuryDirect.* We discharge our payment obligations when we make payment to a depository institution for credit to the account specified by the owner of the security, when we make payment for a certificate of indebtedness to be issued and held in the owner's account, or when we make payment according to the instructions of the security's owner or the owner's legal representative.

(3) *Legacy Treasury Direct.* We discharge our payment obligations when we make payment to a depository institution for credit to the account specified by the owner of the security, or when we make payment according to the instructions of the security's owner or the owner's legal representative.

PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS HELD IN LEGACY TREASURY DIRECT®

■ 12. The authority citation for part 357 continues to read as follows:

Authority: 31 U.S.C. chapter 31; 12 U.S.C. 391; 5 U.S.C. 301.

■ 13. Amend part 357 by revising "TreasuryDirect" or "Legacy Treasury Direct" to read "TreasuryDirect®" or "Legacy Treasury Direct®" the first time they appear in each section or section heading in the part.

■ 14. Amend 357.0 by revising paragraph (a) to read as follows:

§ 357.0 Book-entry systems.

(a) *Treasury securities.* Treasury securities are maintained in one of the following book-entry systems:

(1) *Commercial book-entry system.* The commercial book-entry system is the book-entry system in which Treasury securities are held in a tiered system through securities intermediaries such as financial institutions or brokerage firms. A Treasury security is maintained in the commercial book-entry system if it is credited by a Federal Reserve Bank to a Participant's Securities Account. The regulations governing the commercial book-entry system are found at subpart B of this part, and are referred to as Treasury/ Reserve Automated Debt Entry System (TRADES).

(2) *Legacy Treasury Direct.* The Legacy Treasury Direct system is a non-Internet-based book-entry system maintained by Treasury for purchasing and holding marketable Treasury securities as book-entry products. A Treasury security is maintained in Legacy Treasury Direct if it is credited to a Legacy Treasury Direct account as

described in § 357.20 of this part. Treasury securities are held directly by the Department of the Treasury in accounts maintained in the investor's name. A Legacy Treasury Direct account may be accessed through a designated Federal Reserve Bank or the Bureau of the Public Debt. See subpart C of this part for rules pertaining to Legacy Treasury Direct.

(3) *TreasuryDirect.* TreasuryDirect is a book-entry, online system maintained by the Department of the Treasury for purchasing and holding eligible marketable Treasury securities, United States Savings Bonds, and certificates of indebtedness in electronic form as a computer record on the books of Treasury. The regulations governing TreasuryDirect are found at 31 CFR part 363.

* * * *

■ 15. Amend § 357.2 by revising the definitions of "Book-entry security" and "Original issue," in alphabetical order, to read as follows:

§ 357.2 Definitions.

* * * *

Book-entry security means a Treasury security maintained as a computer record in the commercial book-entry system, Legacy Treasury Direct, or TreasuryDirect.

* * * *

Original issue means Treasury's offering of a marketable Treasury security to the public and its issuance in book-entry form to be maintained in the commercial book-entry system, Legacy Treasury Direct, or TreasuryDirect.

* * * *

■ 16. Amend § 357.22 by revising the second sentence in paragraph (a), the fourth sentence in paragraph (a), the first sentence of paragraph (a)(1), and paragraph (a)(3) to read as follows:

§ 357.22 Transfers.

(a) *General.* * * * A security may be transferred among accounts in Legacy Treasury Direct, the commercial book-entry system, and TreasuryDirect. * * * The Department may delay transfer of a newly purchased security from a Legacy Treasury Direct account to an account in commercial book entry or TreasuryDirect for a period not to exceed (30) calendar days from the date of issue.

(1) *Identification of securities to be transferred.* The owner must identify the securities to be transferred, in the manner required by the transaction request. * * *

* * * *

(3) *When transfer effective.*

(i) *Transfer within Legacy Treasury Direct or to Legacy Treasury Direct from the commercial book-entry system or TreasuryDirect.* A transfer of a security within Legacy Treasury Direct, or to Legacy Treasury Direct from another book-entry system, is effective when an appropriate entry is made in the name of the transferee on the Legacy Treasury Direct records.

(ii) *Transfer from Legacy Treasury Direct to the commercial book-entry system.* A transfer of a security from Legacy Treasury Direct to the commercial book-entry system is effective as provided in Subpart B. If a transfer cannot be completed, and the security is sent back to Legacy Treasury Direct, the Department will redeposit the security in the original account.

(iii) *Transfer from Legacy Treasury Direct to TreasuryDirect.* A transfer of a security from Legacy Treasury Direct to TreasuryDirect is effective as provided in 31 CFR part 363. If the transfer cannot be completed, the Department will redeposit the security in the original account.

* * * * *

PART 363—REGULATIONS GOVERNING SECURITIES HELD IN TREASURYDIRECT

■ 17. The authority citation for part 363 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3102, *et seq.*; 31 U.S.C. 3121, *et seq.*

■ 18. Amend part 363 by revising “TreasuryDirect” or “Legacy Treasury Direct” to read “TreasuryDirect®” or “Legacy Treasury Direct®” the first time they appear in each section or section heading in the part.

§ 363.3 [Removed and reserved]

■ 19. Remove and reserve § 363.3.

■ 20. Revise § 363.4 to read as follows:

§ 363.4 How is TreasuryDirect different from the Legacy Treasury Direct system and the commercial book-entry system?

(a) *TreasuryDirect.* TreasuryDirect is a book-entry, online system maintained by Treasury for purchasing, holding and conducting permitted transactions in eligible Treasury securities in electronic form as a computer record on the books of Treasury. TreasuryDirect currently provides for the purchase and holding of eligible book-entry savings bonds, certificates of indebtedness, and eligible marketable Treasury securities.

(b) *Legacy Treasury Direct.* The Legacy Treasury Direct system is a non-Internet-based book-entry system maintained by Treasury for purchasing, holding, and conducting permitted

transactions in eligible marketable Treasury securities as book-entry products. The terms and conditions for the Legacy Treasury Direct system are found at 31 CFR part 357, subpart C.

(c) *Commercial book-entry system.* The commercial book-entry system is the book-entry system in which Treasury securities are held in a tiered system through securities intermediaries such as financial institutions or brokerage firms. The regulations governing the commercial book-entry system are found at 31 CFR part 357, subpart B, and may be referred to in that part as Treasury/Reserve Automated Debt Entry System (TRADES).

■ 21. Amend § 363.5 by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), adding paragraph (a), and revising the newly redesignated paragraph (c), to read as follows:

§ 363.5 How do I contact Public Debt?

(a) You may use the “Contact Us” feature within TreasuryDirect to communicate information to us over a secure Internet connection.

* * * * *

(c) Letters should be addressed to: Bureau of the Public Debt, TreasuryDirect, P.O. Box 5312, Parkersburg, WV 26106–5312.

■ 22. Amend § 363.6 by removing the definition of “Depository financial institution,” adding the definitions of “Commercial book-entry system,” “Financial institution,” “Legacy Treasury Direct system,” “Marketable Treasury security,” “Sell Direct,” and “Tender” in alphabetical order and revising the definition of “Certificate of Indebtedness” and “Transfer,” to read as follows:

§ 363.6 What special terms do I need to know to understand this part?

* * * * *

Certificate of Indebtedness is a one-day non-interest-bearing security held within your primary or linked account, including a minor account for which you are the custodian, that automatically matures and is rolled over each day until you request that it be redeemed.

Commercial book-entry system refers to the book-entry system in which you hold your Treasury securities in a tiered system through securities intermediaries such as financial institutions or brokerage firms. (See § 363.4.)

* * * * *

Financial institution, or depository financial institution, means an entity described in 12 U.S.C. 461 (b)(1)(A)(i)–(vi).

* * * * *

Legacy Treasury Direct system is a non-Internet-based book-entry system maintained by Treasury since 1986 for purchasing and holding marketable Treasury securities directly with Treasury as book-entry products. (See § 363.4.)

* * * * *

Marketable Treasury security refers to a Treasury bill, note, or bond that is negotiable and transferable, that is, may be bought and sold in the secondary market.

* * * * *

Sell Direct® is a service in which Treasury, through our agent, will sell your marketable Treasury security held in TreasuryDirect or Legacy Treasury Direct on the open market for a fee.

* * * * *

Tender means an offer, or bid, to purchase a marketable Treasury security.

* * * * *

Transfer is a transaction to move a security, or a portion of a security, from one account to another within TreasuryDirect, or to move a marketable Treasury security to or from a TreasuryDirect account and an account in Legacy Treasury Direct or the commercial book-entry system.

* * * * *

■ 23. Amend § 363.10 by revising the heading, paragraph (a)(2), and the last sentence of paragraph (b)(1) to read as follows:

§ 363.10 What is a TreasuryDirect account?

* * * * *

(a) * * *

(2) Gifts of savings bonds that have not yet been delivered;

* * * * *

(b) * * *

(1) * * * You may also buy and deliver gift savings bonds from your custom account.

* * * * *

■ 24. Amend § 363.21 by revising the heading, and paragraphs (a), (b), (c), (d), and (e) to read as follows:

§ 363.21 What transactions can I perform online through my TreasuryDirect account?

* * * * *

(a) You can purchase, transfer, and change the registration of an eligible Treasury security, including a transfer of a marketable security for a Sell Direct transaction;

(b) You can redeem a savings bond;

(c) You can deliver a gift savings bond to the account of the recipient;

(d) You can grant and revoke the right to view an eligible security to a

secondary owner or beneficiary named on the security, if the secondary owner or beneficiary is a TreasuryDirect account owner;

(e) You, as the primary owner, can grant certain transaction rights to the secondary owner, and you can also revoke those rights. The secondary owner can exercise those rights, provided they have not been revoked, if the secondary owner is a TreasuryDirect account owner;

* * * * *

■ 25. Amend § 363.22 by revising paragraph (c) to read as follows:

§ 363.22 Who has the right to conduct online transactions in book-entry securities?

* * * * *

(c) *Primary owner with secondary owner form of registration.* (1) The primary owner can conduct any permitted transaction in a security held in the primary owner's TreasuryDirect account. (See § 363.20(e)).

(2) If the primary owner has given the secondary owner the right to conduct transactions in a security, and has not revoked that right, then the secondary owner can conduct transactions in the security. Transactions that may be conducted by the secondary owner include transferring a marketable security, including a transfer for a Sell Direct transaction, redeeming a savings bond, and changing the destination of interest and redemption payments for marketable securities.

* * * * *

■ 26. Amend § 363.26 by revising paragraph (a) and adding paragraph (c), to read as follows:

§ 363.26 What is a transfer?

(a) A transfer is a transaction to:

(1) Move a Treasury security, or a portion of a Treasury security, from one account to another within TreasuryDirect ;

(2) Move a marketable Treasury security to or from a TreasuryDirect account and an account in Legacy Treasury Direct or the commercial book-entry system.

* * * * *

(c) *Gift delivery is not a transfer.* A transfer does not include delivery of a gift savings bond from the donor to the recipient. This is referred to as a delivery.

■ 27. Amend § 363.27 by:

■ a. Redesignating paragraphs (a) through (f) as paragraphs (b) through (g);

■ b. Adding a new paragraph (a) to read as set forth below; and

■ c. Revising the first sentence of the newly redesignated paragraph (e)(2),

and revising the newly redesignated paragraphs (e)(3), (e)(4), (e)(6), and (e)(7), to read as follows:

§ 363.27 What do I need to know about accounts for minors who have not had a legal guardian appointed by a court?

(a) We do not permit a minor to purchase securities.

* * * * *

(e) * * *

(2) The custodian may redeem savings bonds on behalf of the minor through the minor's account. * * *

(3) The custodian may not purchase gift savings bonds from the minor's account.

(4) The custodian may transfer a security to another TreasuryDirect account, provided the account is a linked account bearing the name and taxpayer identification number of the minor. The custodian can transfer a marketable Treasury security to an account in Legacy Treasury Direct or the commercial book-entry system, and may request a Sell Direct transaction.

* * * * *

(6) Gift savings bonds may be delivered to the minor's account.

(7) The custodian may grant rights to view and conduct transactions in the security as may be permitted by § 363.22.

* * * * *

■ 28. Revise §§ 363.36, 363.37, and 363.38 to read as follows:

§ 363.36 What securities can I purchase and hold in my TreasuryDirect account?

You can purchase and hold eligible Treasury securities in your account. Eligible securities are Series EE and Series I savings bonds, certificates of indebtedness, and marketable Treasury securities that are available for purchase through the TreasuryDirect Web site. In addition, you can hold converted savings bonds and eligible marketable Treasury securities that have been transferred from the Legacy Treasury Direct system or the commercial book-entry system.

§ 363.37 How do I purchase and make payment for eligible Treasury securities through my TreasuryDirect account?

(a) *Online purchase.* Purchases of eligible Treasury securities through your TreasuryDirect account must be made online.

(b) *Payment for savings bonds and marketable Treasury securities.* You can pay for eligible savings bonds and marketable Treasury securities by either a debit to your designated account at a United States financial institution using the ACH method, or by using the

redemption proceeds of your certificate of indebtedness.

(c) *Payment for certificate of indebtedness.* You can pay for a certificate of indebtedness by a direct deposit from your financial institution or employer to your TreasuryDirect account using the ACH method; by a debit from your designated account at a financial institution using the ACH method, but the amount of the debit is limited to \$1000 or less; or by using the proceeds of maturing securities held in your Treasury Direct account.

§ 363.38 What happens if my financial institution returns an ACH debit?

If your designated financial institution returns an ACH debit, we reserve the right to reinitiate the debit at our option. We also reserve the right to reverse the transaction, thereby removing the security from your TreasuryDirect account. If the ACH return occurs after the security has been redeemed, transferred, or has matured and the proceeds paid, we reserve the right to reverse previously processed security transactions. We are not responsible for any fees your financial institution may charge relating to returned ACH debits.

■ 29. Revise § 363.40 to read as follows:

§ 363.40 How are payments of principal and interest made?

(a) *Payment of a savings bond that has reached final maturity.* We will purchase a certificate of indebtedness in your TreasuryDirect account using the proceeds of a matured savings bond.

(b) *Payments of interest and principal (except a savings bond that has reached final maturity).* (1) We provide two methods of receiving payments of principal and interest:

(i) Payment to your account at a financial institution by the ACH method, or

(ii) Payment to your TreasuryDirect account to purchase a certificate of indebtedness.

(2) You may select different payment destinations for principal and interest for a marketable Treasury security. You may change your payment destination at any time, unless the security is in the closed book period. (See § 363.210.)

(3) If we are unable to deliver a payment, we will use the payment to purchase a certificate of indebtedness in your TreasuryDirect account.

■ 30. Amend § 363.44 by revising paragraph (a)(1) to read as follows:

§ 363.44 What happens when a TreasuryDirect account owner dies and the estate is entitled to securities held in the account?

(a) *Estate is being administered.* (1) For an estate that is being administered, the legal representative of the estate may request payment of securities, if the securities are eligible for payment, to the estate or to the persons entitled, or may:

(i) Request transfer of securities to the TreasuryDirect account of the persons entitled, if the securities are eligible for transfer;

(ii) Request transfer of marketable Treasury securities to the commercial book-entry system; or

(iii) Request a Sell Direct transaction.

* * * * *

§§ 363.80–363.81 [Removed and reserved]

■ 31. Remove and reserve § 363.80 and § 363.81.

§ 363.82 [Redesignated]

■ 32. Redesignate § 363.82 as § 363.101.

§ 363.82 [Added and reserved]

■ 32a. Add and reserve new § 363.82.

■ 33. Add § 363.100 to read as follows:

§ 363.100 What are the rules for purchasing and delivering gift savings bonds to minors?

(a) A TreasuryDirect account owner can purchase a savings bond as a gift with a minor as the recipient.

(b) An account owner can deliver a bond purchased as a gift to a minor. The account owner must deliver the security to the minor's linked account. Once delivered, the bond will be under the control of the custodian of the minor's account. (See § 363.27.)

■ 34. Revise the newly redesignated § 363.101 to read as follows:

§ 363.101 Can an account owner transfer a book-entry savings bond to a minor?

An account owner can transfer a book-entry savings bond held in TreasuryDirect to a minor as a gift or pursuant to one of the specified exceptions in § 363.55(a).

■ 35. Amend § 363.138 by revising paragraph (c) to read as follows:

§ 363.138 How do I purchase a certificate of indebtedness?

* * * * *

(c) through the Buy Direct® function of your TreasuryDirect account, in which you direct us to debit funds from your account at a financial institution to purchase a certificate of indebtedness. This method is limited to an amount no greater than \$1000 per transaction. When you use the Buy Direct function

to debit funds to purchase all or a portion of a certificate of indebtedness, you will not be permitted to schedule a redemption for cash from your certificate of indebtedness within five business days after the date of the debit entry; or

* * * * *

■ 36. Revise § 363.142 to read as follows:

§ 363.142 Can I redeem my certificate of indebtedness for cash?

You can redeem part or all of the value of your certificate of indebtedness at any time, with one exception: if you purchased all or a portion of your certificate of indebtedness through a debit using the ACH method, you may not schedule a redemption from your certificate of indebtedness within five business days after the date of the debit entry.

■ 37. Redesignate Subpart F as Subpart H.

■ 38. Redesignate § 363.200 through § 363.202 as § 363.250 through § 363.252.

■ 39. Add a new subpart F to read as follows:

Subpart F—Marketable Treasury Securities
Sec.

363.200 What Treasury securities does this subpart govern?

363.201 What other regulations govern book-entry marketable book-entry Treasury bills, notes, and bonds?

363.202 What marketable Treasury securities may I purchase and hold through my TreasuryDirect account?

363.203 After I purchase my marketable Treasury security in TreasuryDirect, is there a period of time during which I may not transfer the security?

363.204 What registrations are available for my marketable Treasury securities held in TreasuryDirect?

363.205 How do I reinvest the proceeds of a maturing security held in TreasuryDirect?

363.206 How can I transfer my marketable Treasury security into my TreasuryDirect account from another book-entry system?

363.207 Can I transfer my marketable Treasury security from my TreasuryDirect account to another TreasuryDirect account?

363.208 Can I transfer my marketable Treasury security from my TreasuryDirect account to an account in another book-entry system?

363.209 How can I direct that my marketable Treasury security be sold on the open market (Sell Direct®)?

363.210 Is there any period of time during which I will be unable to process certain transactions regarding my security?

363.211–363.249 [Reserved]

Subpart F—Marketable Treasury Securities

§ 363.200 What Treasury securities does this subpart govern?

This subpart provides the rules for holding marketable Treasury bills, notes, and bonds in book-entry form in TreasuryDirect.

§ 363.201 What other regulations govern book-entry marketable book-entry Treasury bills, notes, and bonds?

(a) 31 CFR part 356 governs the sale and issue of marketable book-entry Treasury securities on or after March 1, 1993, whether held in TreasuryDirect, Legacy Treasury Direct, or the commercial book-entry system.

(b) 31 CFR part 357 governs holding marketable book-entry Treasury bills, notes, and bonds in the Legacy Treasury Direct system and in the commercial book-entry system.

§ 363.202 What marketable Treasury securities may I purchase and hold through my TreasuryDirect account?

(a) *Purchase.* You may purchase any marketable Treasury security that is available for purchase through the TreasuryDirect Web site.

(b) *Hold.* You may transfer into the system and maintain in your TreasuryDirect account any eligible marketable book-entry Treasury bill, note, or bond.

§ 363.203 After I purchase my marketable Treasury security in TreasuryDirect, is there a period of time during which I may not transfer the security?

Once you purchase a marketable Treasury security in TreasuryDirect, you may not transfer that security for a period of 45 calendar days after the issue date of the security, or the term of the security, whichever is less.

§ 363.204 What registrations are available for my marketable Treasury securities held in TreasuryDirect?

You may register your marketable Treasury securities in any form of registration permitted by § 363.20 of this part.

§ 363.205 How do I reinvest the proceeds of a maturing security held in TreasuryDirect?

You can reinvest the proceeds of a maturing security held in TreasuryDirect by first directing that the proceeds from the maturing security be used to purchase a certificate of indebtedness in your account, and then using the redemption proceeds of your certificate of indebtedness to purchase another security. Any purchase using the proceeds from a certificate of indebtedness is considered a reinvestment.

§ 363.206 How can I transfer my marketable Treasury security into my TreasuryDirect account from another book-entry system?

(a) *Legacy Treasury Direct to TreasuryDirect.* 31 CFR part 357, subpart C, governs the transfer of a marketable book-entry Treasury security from your Legacy Treasury Direct account into TreasuryDirect.

(b) *Commercial book-entry system to TreasuryDirect.* You may transfer your marketable Treasury security from the commercial book-entry system by contacting the financial institution or broker that handles your commercial book-entry account.

(c) *Form of registration upon transfer to TreasuryDirect.* When your security is transferred into your TreasuryDirect account, it will be transferred into your account in your name in the sole owner form of registration, regardless of the form of registration prior to the transfer. After the transfer is completed, you can change the registration to any form of registration permitted by § 363.20.

(d) *Amounts transferred.* You can only transfer in increments of \$1000.

§ 363.207 Can I transfer my marketable Treasury security from my TreasuryDirect account to another TreasuryDirect account?

After the initial 45-calendar day holding period for your marketable Treasury security (see § 363.203) you can transfer your security to another TreasuryDirect account in increments of \$1000.

§ 363.208 Can I transfer my marketable Treasury security from my TreasuryDirect account to an account in another book-entry system?

After the initial 45-calendar day holding period for your marketable Treasury security (see § 363.203) you can transfer your security to an account in Legacy Treasury Direct or to an account in the commercial book-entry system in increments of \$1000.

§ 363.209 How can I direct that my marketable Treasury security be sold on the open market (Sell Direct®)?

(a) *Sell Direct.* We offer a service, referred to as Sell Direct, in which we will sell your marketable Treasury security for you on the open market at your request. We will transfer your security to an account in the commercial book-entry system maintained by our agent, and will sell the security on your behalf. By authorizing the transfer and sale of the security, you agree to accept the price received by our agent. If our agent is unable to obtain at least one price quote for the security, the security will be returned to your TreasuryDirect account.

(b) *Fee.* We charge a fee for each security sold on your behalf. By authorizing the sale of the security, you authorize our agent to deduct the fee from the proceeds of the sale. If our agent is unable to complete the sale, no fee will be charged. The amount of the fee is published in the **Federal Register**.

(c) *Definitions.* The following definitions will help you understand this section and the confirmation that you will receive after the sale is completed.

(1) The *trade date* is the date that your security is sold.

(2) A *security*, for the purpose of this section, is any amount represented by a separate CUSIP number (see definition of CUSIP in 31 CFR part 356).

(3) The *settlement date* is the date that the proceeds of the sale are released to the financial institution that you designated to receive the proceeds.

(4) The *yield to maturity*, or *yield*, is the annualized rate of return to maturity on a fixed principal security expressed as a percentage. For an inflation-indexed security, yield means real yield, as defined in 31 CFR part 356.

(d) On the settlement date, our agent will release the settlement proceeds,

less the fee, to the account at the financial institution that you designated.

(e) When the transaction is complete, our agent will send you a confirmation. The confirmation will include the price, trade date, settlement date, settlement amount or net amount, transaction fee, and yield to maturity.

(f) We are not liable for changes in market conditions affecting the price received for the security, or for any loss that you may incur as a result of the sale or the inability of our agent to complete the sale.

(g) We reserve the right to terminate the Sell Direct® service at any time.

§ 363.210 Is there any period of time during which I will be unable to process certain transactions regarding my security?

A closed book period will be in effect for four business days prior to the date a marketable security interest or redemption payment is made. This means that certain transactions made during the closed book period will be delayed until after the closed book period is completed and the payment is made. You will be unable to transfer the security, change the payment destination, change the registration of the security, or use Treasury's Sell Direct® service during this closed book period.

§§ 363.211–363.249 [Added and reserved]

■ 40. Add and reserve §§363.211 through 363.249 in subpart F.

Subpart G—[Added and reserved]

■ 41. Add and reserve Subpart G.

Dated: September 26, 2005.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 05–19552 Filed 9–27–05; 12:41 pm]

BILLING CODE 4810–39–P

Department of the Treasury



Fiscal Service, Bureau of the Public Debt

Amendments to:

**31 CFR Part 306 - General Regulations Governing
U.S. Securities
Department of the Treasury Circular 300**

**31 CFR Part 315 - Regulations Governing U.S. Savings
Bonds, Series A, B, C, E, F, G, H, J, and K, and
U.S. Savings Notes
Department of the Treasury Circular 530**

**31 CFR Part 353 - Regulations Governing United
States Savings Bonds, Series EE and HH
Department of the Treasury Circular,
Public Debt Series No. 3-80**

**31 CFR Part 357 - Regulations Governing
Book-Entry Treasury Bonds, Notes and Bills Held in
Legacy Treasury Direct®
Department of the Treasury Circular,
Public Debt Series No. 2-86**

**31 CFR Part 360 - Regulations Governing Definitive
United States Savings Bonds, Series I
Department of the Treasury Circular,
Public Debt Series No. 2-98**

**31 CFR Part 363
Regulations Governing Securities Held in
TreasuryDirect®**

Amended September 30, 2005

DEPARTMENT OF THE TREASURY**Fiscal Service****31 CFR Parts 306, 315, 353, 357, 360, and 363**

[Docket No. BPD-33-05-01]

General Regulations Governing U.S. Securities; Regulations Governing U.S. Savings Bonds, Series A, B, C, D, E, F, G, H, J, and K, and U.S. Savings Notes; Regulations Governing United States Savings Bonds, Series EE and HH; Regulations Governing Book-Entry Treasury Bonds, Notes and Bills (Department of the Treasury Circular, Public Debt Series No. 2-86); Regulations Governing Definitive United States Savings Bonds, Series I; Regulations Governing Securities Held in the New Treasury Direct System

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: New Treasury Direct is an account-based, book-entry, online system for purchasing, holding, and conducting transactions in Treasury securities. The system has been referred to as New Treasury Direct because there is an older system concurrently operating that is also named Treasury Direct, for marketable securities only, with different governing regulations. This rule renames the older version of Treasury Direct as Legacy Treasury Direct, and renames New Treasury Direct as, simply, TreasuryDirect (one word).

In addition, this rule simplifies the regulatory structure for TreasuryDirect. Initially, we began the system with only one security. Since that time, we have added several securities to the system, each with its own governing subpart. Many of the rules in the subparts governing individual securities are repetitive. For instance, the provisions for decedents' estates differ only slightly in subpart C (savings bonds) from provisions in subpart D (certificates of indebtedness), and subpart E (converted savings bonds). Rather than repeat similar provisions for each security, this rule will integrate the similar provisions into one provision that will apply to all securities in the system. The integrated provisions will be contained in subpart B, which applies to all securities held within the system. Provisions that affect only one security will be contained within the subpart governing that security. In condensing and moving substantive changes.

We are also amending provisions relating to Internal Revenue Service levies to provide that we will honor levies against the secondary owner of securities owned in the primary/secondary form of ownership if the levy is received at a date when the secondary owner has a right to redeem the security.

DATES: Effective: September 30, 2005.

ADDRESSES: You can download this final rule at the following Internet addresses: <http://www.publicdebt.treas.gov> or <http://www.gpoaccess.gov/ecfr>.

FOR FURTHER INFORMATION CONTACT:

Elisha Whipkey, Director, Division of Program Administration, Office of Securities Operations, Bureau of the Public Debt, at (304) 480-6319 or elisha.whipkey@bpd.treas.gov.

Susan Klimas, Attorney-Adviser, Dean Adams, Assistant Chief Counsel, Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480-8692 or susan.klimas@bpd.treas.gov.

SUPPLEMENTARY INFORMATION:

TreasuryDirect is an account-based, online, book-entry system for purchasing, holding, and conducting transactions in Treasury securities via the Internet. Currently, book-entry Series EE and Series I savings bonds and certificates of indebtedness are offered for purchase, and definitive savings bonds may be converted to book-entry savings bonds through TreasuryDirect.

The TreasuryDirect regulations have been written in a modular manner. We have added subparts as we have added securities to the system. Each subpart has its own provisions as to judicial matters, forms of registration, decedents' estates, evidentiary requirements, and forfeiture procedures. This is because it was unclear when we began the system with savings bonds what securities would later be added, and whether these securities would have the same terms and conditions as the savings bonds already in the system. Now, it is clear that many of the administrative provisions for all securities will be similar. Therefore, we have removed some provisions from the subparts specific to the securities, and added consolidated provisions to the subpart that is common to all securities held in TreasuryDirect. This will better clarify the terms and conditions for forms of registration, decedents' estates, judicial proceedings, evidentiary requirements, and forfeiture procedures, and will tailor these provisions to the system's current and planned configuration. We originally placed these provisions, and others, into subpart C, which deals specifically with book-entry savings

bonds, subpart D, which deals specifically with certificates of indebtedness, and subpart E, which deals with converted savings bonds. We are moving these provisions to subpart B, which is a subpart that is common to all securities held within the TreasuryDirect system. Generally, the substance of the moved provisions has not been changed, other than to make references to securities in general rather than to a specific security.

We are amending the provisions regarding Internal Revenue Service levies to provide that we will honor levies against the secondary owner of securities owned in the primary/secondary form of ownership if the levy is received at a time when the secondary owner has a right to redeem the security. Previously, levies were honored only against "owners" as defined in the TreasuryDirect governing regulations. Owners were defined as "either a single owner, the first person named in the registration of a security held in the owner with beneficiary form of registration, the primary owner of a security held in the primary owner with secondary owner form of registration, or either coowner of a converted savings bond." IRS levies were not permitted against secondary owners because of the nature of the ownership interest. However, during periods when a secondary owner has been given the right to redeem, he or she has an interest sufficient for an IRS levy to attach.

Procedural Requirements

This final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

Because this final rule relates to matters of public contract and procedures for United States securities, notice and public procedure and delayed effective date requirements are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply.

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects**31 CFR Part 306**

Government securities.

31 CFR Part 315

Bonds.

31 CFR Part 353

Bonds.

31 CFR Part 357

Banks, Banking, Bonds, Electronic funds transfers, Government securities, Reporting and recordkeeping requirements.

31 CFR Part 360

Bonds.

31 CFR Part 363

Bonds, Electronic funds transfer, Federal Reserve system, Government securities, Securities.

■ Accordingly, for the reasons set out in the preamble, 31 CFR chapter II, subchapter B, is amended as follows:

PART 306—GENERAL REGULATIONS GOVERNING U.S. SECURITIES

■ 1. The authority citation of part 306 continues to read as follows:

Authority: 31 U.S.C. Chapter 31; 5 U.S.C. 301; 12 U.S.C. 391.

■ 2. Amend § 306.2 by adding paragraph (u) to read as follows:

§ 306.2 Definitions of words and terms as used in these regulations.

* * * * *

(u) *Voluntary representative* means the person qualified by the Department of the Treasury to request payment or make an assignment of a decedent's securities pursuant to § 306.65.

■ 3. Revise § 306.65 to read as follows:

§ 306.65 Decedent's estate.

(a) *Estate is being administered.* (1) A legal representative of a deceased owner's estate may request payment of matured securities to the estate, or may assign securities to or for the benefit of the persons entitled.

(2) Appropriate proof of appointment for the legal representative of the estate is required. Letters of appointment must be dated not more than one year prior to the date of submission of the letters of appointment.

(b) *Estate has been settled previously.* If the estate has been settled previously through judicial proceedings, the persons entitled may request payment of matured securities, or may request assignment of unmatured securities. A certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence is required.

(c) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the estate is to be appointed, the person

appointed to receive or distribute the assets of a decedent's estate without regular administration under summary or small estates procedures under applicable local law may request payment of matured securities, or may request assignment of the securities. Appropriate evidence is required.

(d) *When administration is required.* If the total redemption value of the Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the value of securities, and will be determined as of the date of death. Administration may also be required at the discretion of the Department for any case.

(e) *Voluntary representative for small estates that are not being otherwise administered.* (1) *General.* A voluntary representative is a person qualified according to paragraph (e)(3) of this section, to request payment of a decedent's matured securities or to make an assignment of a decedent's unmatured securities. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's securities and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(i) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(ii) The total redemption value of the Treasury securities and held payments, if any, held directly on our records that are the property of the decedent's estate is \$100,000 or less as of the date of death; and

(iii) There is a person eligible to serve as the voluntary representative according to paragraph (e)(3) of this section.

(2) *Authority of voluntary representative.* A voluntary representative may:

(i) Request payment of the decedent's matured securities on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death;

(ii) Assign the decedent's securities to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death.

(3) *Order of precedence for voluntary representative.* An individual eighteen years of age or older may act as a voluntary representative according to the following order of precedence: a surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(4) *Liability.* By serving, the voluntary representative warrants that the distribution of payments or securities is to or on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of payments or securities. Upon payment or assignment of the securities at the request of the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount no greater than the value received by the voluntary representative.

(f) *Creditor.* If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for the amount of the debt, providing the debt has not been barred by applicable local law. The claim may only be satisfied by the proceeds of matured securities.

§§ 306.66 and 306.67 [Removed and Reserved]

■ 4. Remove and reserve §§ 306.66 and 306.67.

**PART 315—REGULATIONS
GOVERNING U.S. SAVINGS BONDS,
SERIES A, B, C, D, E, F, G, H, J, AND
K, AND U.S. SAVINGS NOTES**

■ 5. The authority citation of part 315 continues to read as follows:

Authority: 31 U.S.C. 3105 and 5 U.S.C. 301.

■ 6. Amend § 315.2 by adding paragraph (r) to read as follows:

§ 315.2 Definitions.

* * * * *

(r) *Voluntary representative* means the person qualified by the Department of the Treasury to request payment or distribution of a decedent's savings bonds pursuant to § 315.71.

■ 7. Revise § 315.71 to read as follows:

§ 315.71 Decedent's estate.

(a) *Estate is being administered.* (1) A legal representative of a deceased owner's estate may request payment of savings bonds to the estate, or may distribute the savings bonds to the persons entitled.

(2) Appropriate proof of appointment for the legal representative of the estate is required. Letters of appointment must be dated not more than one year prior to the date of submission of the letters of appointment.

(b) *Estate has been settled previously.* If the estate has been settled previously through judicial proceedings, the persons entitled may request payment or reissue of the savings bonds. A certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence is required.

(c) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the estate is to be appointed, the person appointed to receive or distribute the assets of a decedent's estate without regular administration under summary or small estates procedures under applicable local law may request payment or reissue of savings bonds. Appropriate evidence is required.

(d) *When administration is required.* If the total redemption value of the Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the value of securities, and will be determined as of the date of death. Administration may also be required at

the discretion of the Department for any case.

(e) *Voluntary representative for small estates that are not being otherwise administered.* (1) *General.* A voluntary representative is a person qualified according to paragraph (e)(3) of this section, to redeem or to distribute a decedent's savings bonds. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's savings bonds and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(i) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(ii) The total redemption value of the Treasury securities and held payments, if any, held directly on our records that are the property of the decedent's estate is \$100,000 or less as of the date of death; and

(iii) There is a person eligible to serve as the voluntary representative according to paragraph (e)(3) of this section.

(2) *Authority of voluntary representative.* A voluntary representative may:

(i) Redeem the decedent's savings bonds on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death;

(ii) Distribute the decedent's savings bonds to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death.

(3) *Order of precedence for voluntary representative.* An individual eighteen years of age or older may act as a voluntary representative according to the following order of precedence: A surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(4) *Liability.* By serving, the voluntary representative warrants that the distribution of payments or savings bonds is to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of payments or savings bonds. Upon payment or distribution of the savings bonds at the request of the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount no greater than the value received by the voluntary representative.

(f) *Creditor.* If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for payment for the amount of the debt, providing the debt has not been barred by applicable local law.

**PART 353—REGULATIONS
GOVERNING UNITED STATES
SAVINGS BONDS, SERIES EE AND HH**

■ 8. The authority citation of part 353 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3125.

■ 9. Amend § 353.2 by adding paragraph (n) to read as follows:

§ 353.2 Definitions.

* * * * *

(n) *Voluntary representative* means the person qualified by the Department of the Treasury to request payment or distribution of a decedent's savings bonds pursuant to § 353.71.

■ 10. Revise § 353.71 to read as follows:

§ 353.71 Decedent's estate.

(a) *Estate is being administered.* (1) A legal representative of a deceased owner's estate may request payment of savings bonds to the estate, or may distribute the savings bonds to the persons entitled.

(2) Appropriate proof of appointment for the legal representative of the estate is required. Letters of appointment must be dated not more than one year prior

to the date of submission of the letters of appointment.

(b) *Estate has been settled previously.* If the estate has been settled previously through judicial proceedings, the persons entitled may request payment or reissue of savings bonds. A certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence is required.

(c) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the estate is to be appointed, the person appointed to receive or distribute the assets of a decedent's estate without regular administration under applicable local law summary or small estates procedures may request payment or reissue of savings bonds. Appropriate evidence is required.

(d) *When administration is required.* If the total redemption value of the Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the value of securities, and will be determined as of the date of death. Administration may also be required at the discretion of the Department for any case.

(e) *Voluntary representative for small estates that are not being otherwise administered.* (1) *General.* A voluntary representative is a person qualified according to paragraph (e)(3) of this section, to redeem or distribute a decedent's savings bonds. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's savings bonds and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(i) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(ii) The total redemption value of the Treasury securities and held payments, if any, held directly on our records that are the property of the decedent's estate is \$100,000 or less as of the date of death; and

(iii) There is a person eligible to serve as the voluntary representative

according to paragraph (e)(3) of this section.

(2) *Authority of voluntary representative.* A voluntary representative may:

(i) Redeem the decedent's savings bonds that are eligible for redemption on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death;

(ii) Distribute the decedent's savings bonds to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death.

(3) *Order of precedence for voluntary representative.* An individual eighteen years of age or older may act as a voluntary representative according to the following order of precedence: A surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(4) *Liability.* By serving, the voluntary representative warrants that the distribution of payments or savings bonds is to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of payments or securities. Upon payment or transfer of the securities at the request of the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount no greater than the value received by the voluntary representative.

(f) *Creditor.* If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no

person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for the amount of the debt, providing the debt has not been barred by applicable local law.

PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS HELD IN LEGACY TREASURY DIRECT

■ 11. The authority citation for part 357 continues to read as follows:

Authority: 31 U.S.C. chapter 31; 5 U.S.C. 301; 12 U.S.C. 391.

■ 12. Revise the heading for part 357 to read as set forth above.

■ 13. In part 357, the phrases "TREASURY DIRECT," "Treasury Direct," and "TreasuryDirect" are revised to read "Legacy Treasury Direct" wherever they appear.

■ 14. Amend § 357.0 by revising paragraph (c) to read as follows:

§ 357.0 Book-entry systems.

* * * * *

(c) *TreasuryDirect system.* TreasuryDirect is an Internet-based book-entry system maintained by the Department of the Treasury. The regulations governing TreasuryDirect are found at part 363 of this chapter. Legacy Treasury Direct is a separate, non-Internet-based book-entry system for marketable Treasury securities only.

■ 15. Amend § 357.2 by adding the definition of "Voluntary representative" in alphabetical order, to read as follows:

§ 357.2 Definitions.

* * * * *

Voluntary representative means the person qualified by the Department of the Treasury to accept payment or direct distribution of a decedent's securities pursuant to § 357.28.

■ 16. Amend § 357.28 by revising paragraph (c) to read as follows:

§ 357.28 Transaction requests.

* * * * *

(c) *Representatives.*

(1) *General.* Any representative of an owner's estate, other than a trustee, may execute a transaction request form if the representative submits to the Department properly authenticated evidence of the authority to act. The evidence will not be accepted if dated more than one year prior to the date of submission of the transaction request.

(2) *Decedent's estate has been settled previously.* If a decedent's estate has been settled previously through judicial proceedings, the persons entitled may

make a transaction request. A certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence will be required.

(3) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the decedent's estate is to be appointed, the person appointed to receive or distribute the assets of a decedent's estate without regular administration under applicable local law summary or small estates procedures may make a transaction request. Appropriate evidence will be required.

(4) *When administration is required.* If the total redemption value of the Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the value of securities, and will be determined as of the date of death. Administration may also be required at the discretion of the Department for any case.

(5) *Voluntary representative for small estates of decedents that are not being otherwise administered.* (i) *General.* A voluntary representative is a person qualified according to paragraph (c)(5)(iii) of this section, to make a transaction request. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's securities and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(A) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(B) The total redemption value of the Treasury securities and held payments, if any, that are the property of the decedent's estate is \$100,000 or less as of the date of death; and

(C) There is a person eligible to serve as the voluntary representative according to paragraph (c)(5)(iii) of this section.

(ii) *Authority of voluntary representative.* A voluntary representative may make a transaction request to distribute the securities to or for the benefit of the persons entitled by laws of the jurisdiction in which the

decedent was domiciled at the date of death.

(iii) *Order of precedence for voluntary representative.* An individual eighteen years of age or older may act as a voluntary representative according to the following order of precedence: A surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(iv) *Liability.* By serving, the voluntary representative warrants that the distribution of securities or proceeds is to or on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of securities or proceeds. Upon distribution of the securities or proceeds at the request of the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount no greater than the value received by the voluntary representative.

(v) *Creditor.* If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for payment of the amount of the debt, providing the debt has not been barred by applicable local law.

* * * * *

PART 360—REGULATIONS GOVERNING DEFINITIVE UNITED STATES SAVINGS BONDS, SERIES I

■ 17. The authority citation for part 360 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3105 and 3125.

■ 18. Amend § 360.2 by adding paragraph (n) to read as follows:

§ 360.2 Definitions.

* * * * *

(n) *Voluntary representative* means the person qualified by the Department of the Treasury to request payment or distribution of a decedent's savings bonds pursuant to § 360.71.

■ 19. Amend § 360.70 by revising the second sentence of the introductory paragraph, to read as follows:

§ 360.70 General rules governing entitlement.

* * * Appropriate proof of death will be required.

* * * * *

■ 20. Revise § 360.71 to read as follows:

§ 360.71 Decedent's estate.

(a) *Estate is being administered.* (1) A legal representative of a deceased owner's estate may request payment of savings bonds to the estate, or may distribute the savings bonds to the persons entitled.

(2) Appropriate proof of appointment for the legal representative of the estate is required. Letters of appointment must be dated not more than one year prior to the date of submission of the letters of appointment.

(b) *Estate has been settled previously.* If the estate has been settled previously through judicial proceedings, the persons entitled may request payment or reissue of the savings bonds. A certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence is required.

(c) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the estate is to be appointed, the person appointed to receive or distribute the assets of a decedent's estate without regular administration under applicable local law summary or small estates procedures may request payment or reissue of savings bonds. Appropriate evidence is required.

(d) *When administration is required.* If the total redemption value of the Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the

value of securities, and will be determined as of the date of death. Administration may also be required at the discretion of the Department for any case.

(e) *Voluntary representative for small estates that are not being otherwise administered.* (1) *General.* A voluntary representative is a person qualified according to paragraph (e)(3) of this section, to request payment or distribution of a decedent's savings bonds. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's savings bonds and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(i) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(ii) The total redemption value of the Treasury securities and held payments, if any, held directly on our records that are the property of the decedent's estate is \$100,000 or less as of the date of death; and

(iii) There is a person eligible to serve as the voluntary representative according to paragraph (e)(3) of this section.

(2) *Authority of voluntary representative.* A voluntary representative may:

(i) Redeem the decedent's savings bonds that are eligible for redemption on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death;

(ii) Distribute the decedent's savings bonds to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death.

(3) *Order of precedence for voluntary representative.* An individual eighteen years of age or older may act as a voluntary representative according to the following order of precedence: A surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the law of the jurisdiction in which the decedent was

domiciled at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(4) *Liability.* By serving, the voluntary representative warrants that the distribution of payments or savings bonds is to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of payments or securities. Upon payment or distribution of the securities at the request of the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount no greater than the value received by the voluntary representative.

(f) *Creditor.* If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for payment of the amount of the debt, providing the debt has not been barred by applicable local law.

PART 363—REGULATIONS GOVERNING SECURITIES HELD IN TREASURYDIRECT

■ 21. The authority citation for part 363 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3102, *et seq.*; 31 U.S.C. 3121, *et seq.*

■ 22. Revise the heading for part 363 to read as set forth above.

■ 23–24. In part 363, revise all references to “New Treasury Direct” to read “TreasuryDirect” wherever they appear.

■ 25. Amend § 363.6 by:

■ a. Removing all references to “§ 363.15” and adding in their places the reference “§ 363.10”;

■ b. Adding the definition of “Voluntary representative” in alphabetical order;

■ c. Revising the definition of “Final maturity of a savings bond”;

■ d. Revising the definition of “Minor linked account,” and

■ e. Revising footnote 1 to read as follows:

§ 363.6 What special terms do I need to know to understand this part?

* * * * *

Final maturity of a savings bond means the date beyond which an unredeemed savings bond no longer earns interest.¹

* * * * *

Minor account means an account that a custodian controls on behalf of a minor, that is linked to the custodian's primary account. (See §§ 363.10 and 363.27 for more information about minor accounts.)

* * * * *

Voluntary representative means the person qualified by the Department of the Treasury to accept payment or direct distribution of a decedent's securities pursuant to § 363.44.

* * * * *

¹ Series EE and Series I savings bonds currently have an original maturity period of 20 years and an extended maturity period of 10 years beyond original maturity during which the bonds continue to earn interest.

■ 26. Revise the heading for Subpart B to read as follows:

Subpart B—General Provisions Governing Securities Held in TreasuryDirect

■ 26a. Transfer §§ 363.9 through 363.14 to subpart B.

■ 27. Add § 363.9 to read as follows:

§ 363.9 What does this subpart cover?

This subpart provides general rules governing securities held within the TreasuryDirect system. Provisions in the subparts governing specific securities that conflict with these general rules will supersede these general rules.

■ 28. Redesignate §§ 363.15 and 363.16 as §§ 363.10 and 363.11, respectively.

■ 29. Add § 363.12 to read as follows:

§ 363.12 Who may purchase and hold book-entry securities in TreasuryDirect?

(a) A TreasuryDirect account owner may purchase and hold securities through his or her account.

(b) We do not permit a legally incompetent person to open an account, purchase securities, or convert savings bonds once we have been provided with an order from a court with appropriate jurisdiction determining incompetence to perform such activities.

(c) We do not permit a legal representative, a legal guardian, or a voluntary representative to purchase securities on behalf of the estate of a decedent or an incompetent person.

(d) We may reject any application for the purchase of a security, in whole or

in part. We may refuse to issue a security in any case or class of cases, if we deem the action to be in the public interest. Our decision in any such respect is final.

■ 30. Redesignate §§ 363.17 through 363.23 as §§ 363.13 through 363.19, respectively.

■ 31. Add new § 363.20 to read as follows:

§ 363.20 What do I need to know about the forms of registration that are available for purchases of securities through my TreasuryDirect account?

(a) *General principles.* (1) Registration must express the actual ownership of, and interest in, the security. Registration conclusively establishes ownership of a security.

(2) You must provide a last name and a first name for each individual included in the registration of the security.

(3) You must provide the valid taxpayer identification number for each person named in the registration of the security.

(b) *Forms of registration.* The forms of registration available for purchases of securities made through your TreasuryDirect account are single owner, owner with beneficiary, and primary owner with secondary owner, unless the forms of registration available for a security are specifically limited by the subpart governing that security.

(c) *Single owner.* (1) A single owner is the individual named in the registration of a book-entry security or a converted savings bond without a beneficiary, secondary owner, or coowner.

(2) A single owner may add a beneficiary or secondary owner.

(3) A single owner may conduct permitted online transactions on securities held in his or her account.

(4) Upon the death of the single owner, his or her estate is entitled to the security. In determining entitlement, the law of the decedent's domicile will be followed.

(5) Registration example: "John Doe, SSN 123-45-6789."

(d) *Owner with beneficiary.* (1) The purchaser must be named as the owner with another individual as beneficiary.

(2) The owner may remove or change the beneficiary without the consent of the beneficiary.

(3) The owner may conduct permitted online transactions on securities held in his or her account without the consent of the beneficiary.

(4) The beneficiary has no ownership rights to the security during the owner's lifetime. Upon the death of the owner, the security becomes the property of the

surviving beneficiary, despite any attempted testamentary disposition or any applicable local law to the contrary.

(5) If the beneficiary does not survive the owner, the security belongs to the estate of the owner.

(6) If both the owner and the beneficiary die under conditions where it cannot be established, either by presumption of law or otherwise, who died first, the security is the property of the estate of the owner.

(7) In order for the beneficiary to obtain the security or the redemption proceeds after the death of the owner, the beneficiary must provide proof of death of the owner. If the beneficiary has a TreasuryDirect account, the security will be transferred to that account. If the beneficiary does not have an account, he or she may establish an account. Alternatively, a beneficiary named on a savings bond may request redemption. If the beneficiary requests redemption, he or she must provide ACH instructions for the payment.

(8) Registration example: "John Doe, SSN 123-45-6789 POD (payable on death to) Jane Doe, SSN 987-65-4321."

(e) *Primary owner with secondary owner.* (1) The purchaser must be named in the registration as the primary owner with another individual as secondary owner.

(2) The primary owner holds the securities in his or her account and may view or conduct permitted online transactions in the securities.

(3) The primary owner may remove the secondary owner without the consent of the secondary owner.

(4) The secondary owner has no rights to view or conduct transactions in any security unless the primary owner gives the secondary owner these rights.

(5) The primary owner may give the secondary owner the right to view any security or rights to view and conduct transactions in any security online from the account of the secondary owner.

(6) Once the right to conduct transactions in a security has been given to the secondary owner, the primary owner may view and conduct transactions in the security from his or her account, and the secondary owner may view and conduct transactions in the security using his or her own account.

(7) The primary owner may revoke any rights previously given to the secondary owner at any time.

(8) Upon the death of either the primary or secondary owner, the security becomes the property of the survivor, despite any attempted testamentary disposition or any applicable local law to the contrary.

(9) If both the primary and the secondary owner die under conditions where it cannot be established, either by presumption of law or otherwise, who died first, the security is the property of the estate of the primary owner.

(10) In order for the secondary owner to obtain the security or the security proceeds after the death of the primary owner, the secondary owner must provide proof of death of the primary owner. If the secondary owner has a TreasuryDirect account, the security will be transferred to that account. If the secondary owner does not have an account, he or she may establish an account. Alternatively, a secondary owner named on a savings bond may request redemption. If the secondary owner requests redemption, he or she must provide ACH instructions.

(11) Registration example: "John Doe, SSN 123-45-6789 with Joseph Doe, SSN 987-65-4321."

■ 32. Redesignate §§ 363.24 as § 363.21.

■ 33. Add new § 363.22 to read as follows:

§ 363.22 Who has the right to conduct online transactions in book-entry securities?

(a) *Single owner form of registration.*

A single owner can conduct transactions in securities held in his or her TreasuryDirect account.

(b) *Owner with beneficiary form of registration.* The owner can conduct transactions in securities held in his or her TreasuryDirect account. The beneficiary has no rights during the lifetime of the owner and therefore cannot conduct transactions in the securities.

(c) *Primary owner with secondary owner form of registration.* The primary owner can conduct transactions in securities held in his or her TreasuryDirect account. The secondary owner can redeem savings bonds using his or her TreasuryDirect account providing the secondary owner has the right to redeem at the time of the transaction.

(d) *Converted savings bonds.* The rules for transactions governing converted savings bonds are contained in subpart E of this part.

§§ 363.23 and 363.24 [Reserved]

■ 34. Add and reserve new §§ 363.23 and 363.24.

■ 35. Add §§ 363.28 and 363.29 to read as follows:

§ 363.28 Does Public Debt reserve the right to require that any TreasuryDirect transaction be conducted in paper form?

We reserve the right to require any transaction to be conducted in paper

form. Signatures on paper transactions must be certified or guaranteed as provided in § 363.43.

§ 363.29 May Treasury close an account, suspend transactions in an account, or refuse to open an account?

We reserve the right to take any of the following actions if, in our sole discretion, we deem the action to be in the best interests of the United States:

- (a) Refuse to open an account for any person;
- (b) Close any existing account;
- (c) Suspend transactions with respect to an account or any security held in an account; or
- (d) Take any other action with regard to any account that we deem necessary, if not inconsistent with existing law and existing rights.

■ 36. Amend § 363.42 by removing the words "Series I" from the section.

■ 37. Amend § 363.43 by revising paragraph (a)(4)(i) to read as follows:

§ 363.43 What are the procedures for certifying my signature on an offline application for a TreasuryDirect account, or on an offline transaction form?

(a) * * * * *

(4) * * * * *

(i) We require a statement that the person executing the assignment is one whose signature the officer is authorized to certify under our regulations.

* * * * *

■ 38. Add §§ 363.44, 363.45, and 363.46 to read as follows:

§ 363.44 What happens when a TreasuryDirect account owner dies and the estate is entitled to securities held in the account?

(a) *Estate is being administered.* (1) A legal representative of a deceased owner's estate may request payment of securities, if the securities are eligible for payment, to the estate or to the persons entitled, or may request transfer of the securities to the TreasuryDirect account of the persons entitled, if the securities are eligible for transfer.

(2) We will require appropriate proof of appointment for the legal representative of the estate. Letters of appointment must be dated not more than one year prior to the date of submission of the letters of appointment.

(3) The legal representative of the estate may not purchase securities on behalf of the estate.

(4) If payment is requested, we will require ACH instructions to process the request.

(b) *Estate has been settled previously.* If the estate has been settled previously through judicial proceedings, the

persons entitled may request payment of securities, if the securities are eligible for redemption, or may transfer the securities to the TreasuryDirect accounts of the persons entitled, if the securities are eligible for transfer. We will require a certified copy of the court-approved final accounting for the estate, the court's decree of distribution, or other appropriate evidence. If payment is requested, we will require ACH instructions to process the request.

(c) *Special provisions under the law of the jurisdiction of the decedent's domicile.* If there is no formal or regular administration and no representative of the estate is to be appointed, the person appointed to receive or distribute the assets of a decedent's estate without regular administration under summary or small estates procedures under applicable local law may request payment of securities, if the securities are eligible for redemption, or may transfer the securities to or on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death, if the securities are eligible for transfer. We will require appropriate evidence. If payment is requested, we will require ACH instructions to process the request.

(d) *When administration is required.* If the total redemption value of the Treasury securities and undelivered payments, if any, held directly on our records that are the property of the decedent's estate is greater than \$100,000, administration of the decedent's estate will be required. The redemption value of savings bonds and the principal amount of marketable securities will be used to determine the value of securities, and will be determined as of the date of death. Administration may also be required at the discretion of the Department for any case.

(e) *Voluntary representative for small estates that are not being otherwise administered.* (1) *General.* A voluntary representative is a person qualified according to paragraph (e)(3) of this section, to redeem or transfer a decedent's securities. The voluntary representative procedures are for the convenience of the Department; entitlement to the decedent's securities and held payments, if any, is determined by the law of the jurisdiction in which the decedent was domiciled at the date of death. Voluntary representative procedures may be used only if:

(i) There has been no administration, no administration is contemplated, and no summary or small estate procedures under applicable local law have been used;

(ii) The total redemption value of the Treasury securities and held payments, if any, held directly on our records that are the property of the decedent's estate is \$100,000 or less, as of the date of death, and

(iii) There is a person eligible to serve as the voluntary representative according to paragraph (e)(3) of this section.

(2) *Authority of voluntary representative.* A voluntary representative may:

(i) Redeem the decedent's savings bonds that are eligible for redemption. Payment may be made to the voluntary representative on behalf of or directly to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death;

(ii) Transfer the decedent's securities to the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death.

(3) *Order of precedence for voluntary representative.* An individual eighteen years of age or older may act as a voluntary representative according to the following order of precedence: a surviving spouse; if there is no surviving spouse, then a child of the decedent; if there are none of the above, then a descendant of a deceased child of the decedent; if there are none of the above, then a parent of the decedent; if there are none of the above, then a brother or sister of the decedent; if there are none of the above, then a descendant of a deceased brother or sister of the decedent; if there are none of the above, then a next of kin of the decedent, as determined by the laws of the decedent's domicile at the date of death. As used in this order of precedence, child means a natural or adopted child of the decedent.

(4) *Liability.* By serving, the voluntary representative warrants that the distribution of payments or securities are to or on behalf of the persons entitled by the law of the jurisdiction in which the decedent was domiciled at the date of death. The United States is not liable to any person for the improper distribution of payments or securities. Upon payment or transfer of the securities to the voluntary representative, the United States is released to the same extent as if it had paid or delivered to a representative of the estate appointed pursuant to the law of the jurisdiction in which the decedent was domiciled at the date of death. The voluntary representative shall indemnify and hold harmless the United States and all creditors and persons entitled to the estate of the decedent. The amount of the indemnification is limited to an amount

no greater than the value received by the voluntary representative.

(5) *Creditor*. If there has been no administration, no administration is contemplated, no summary or small estate procedures under applicable local law have been used, and there is no person eligible to serve as a voluntary representative pursuant to paragraph (e) of this section, then a creditor may make a claim for payment of the amount of the debt, providing the debt has not been barred by applicable local law.

§ 363.45 What are the rules for judicial and administrative actions involving securities held in TreasuryDirect?

(a) *Notice of adverse claim or pending judicial proceedings*. We are not subject to and will not accept a notice of an adverse claim or notice of pending judicial proceedings involving a security held in TreasuryDirect.

(b) *Competing claims to a security*. The Department of the Treasury, Public Debt, and the Federal Reserve Banks are not proper defendants in a judicial proceeding involving competing claims to a security held in TreasuryDirect.

(c) *Divorce decree*. We will recognize a divorce decree that either disposes of a security held in TreasuryDirect or ratifies a property settlement agreement disposing of a security that is the property of either of the parties. If the divorce decree does not set out the terms of the property settlement agreement, we will require a certified copy of the agreement.

(d) *Final court order*. We will recognize a final order entered by a court that affects ownership rights in a security held in TreasuryDirect only to the extent that the order is consistent with the provisions of this part. The owner of the security must be a party to the proceedings.

(e) *Levy to satisfy money judgment*. We will honor a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of a security held in TreasuryDirect pursuant to a money judgment against the owner of the security, as owner is defined in section 363.6 of this part. In the case of savings bonds, we will only make payment pursuant to the court order to the extent of the money judgment. We will not transfer the savings bonds.

(f) *IRS levy*. We will honor an IRS notice of levy under section 6331 of the Internal Revenue Code with respect to:

- (1) The owner, as owner is defined in section 363.6 of this part; and
- (2) A secondary owner, if the secondary owner has the right to conduct transactions in a security at the

date and time the notice of levy is delivered to Public Debt.

(g) *Trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar court officer*. We will honor a transaction request submitted by a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar court officer, if the original court order is against the owner, as owner is defined in § 363.6 of this part. In the case of savings bonds, we will only make payment. We will not transfer the savings bonds.

(h) *Court order that attempts to defeat or impair survivorship rights*. We will not recognize a court order that attempts to defeat or impair the survivorship rights of a beneficiary, secondary owner, coowner of a converted savings bond, or the registered owner of an undelivered gift security held in TreasuryDirect.

§ 363.46 What evidence is required to establish the validity of judicial proceedings?

(a) We will require certified copies of the final judgment, decree, or court order, and any necessary supplementary proceedings.

(b) A transaction request by a trustee in bankruptcy or a receiver of an insolvent's estate must be supported by evidence of appointment and qualification.

(c) A transaction request by a receiver in equity or a similar court officer (other than a receiver of an insolvent's estate) must be supported by a copy of an order that authorizes the receiver or similar court officer to take possession and control of the security.

■ 39. Add §§ 363.47 to read as follows:

§ 363.47 Will Public Debt pay Treasury securities pursuant to a forfeiture proceeding?

(a) *General*. We will honor a judicial or administrative forfeiture order or declaration of forfeiture submitted by a federal agency. We will rely exclusively upon the information provided by the Federal forfeiting agency and will not make any independent evaluation of the validity of the forfeiture order, the request for payment, or the authority of the individual signing the transaction request. The amount to be paid or transferred is limited to the value of the security as of the date of forfeiture.

(b) *Definition of special terms relating to forfeitures*.

Contact point means the individual designated by the Federal investigative agency, United States Attorney's Office, or forfeiting agency, to receive referrals from Public Debt.

Forfeiting agency means the federal law enforcement agency responsible for the forfeiture.

Forfeiture means the process by which property may be forfeited by a federal agency. Administrative forfeiture is forfeiture by a federal agency without judicial proceedings resulting in a declaration of forfeiture; judicial forfeiture is a forfeiture through either a civil or criminal proceeding in a United States District Court resulting in a final judgment and order of forfeiture.

(c) *Procedures for a forfeiting agency to request forfeiture of Treasury securities*. A forfeiting agency must request forfeiture. An individual authorized by the forfeiting agency must sign the transaction request. The request must be mailed to the Department of the Treasury, Bureau of the Public Debt, Parkersburg, WV 26106-7015.

(d) *Public Debt procedures upon receipt of forfeiture request*. Upon receipt and review of the transaction request, we will make payment to the forfeiture fund specified, if the security is eligible for payment, or we will transfer the security pursuant to the transaction request. We will record the forfeiture, the forfeiture fund into which the proceeds were paid or the security transfer records, the contact point, and any related information.

(e) *Inquiries from previous owner*. All inquiries or claims from the previous owner will be referred to the contact point of the forfeiting agency. We will tell the person who inquired that we referred his or her inquiry to the contact point. We will not investigate the inquiry. We will defer to the forfeiting agency's determination of the appropriate course of action, including settlement where appropriate. Any settlement will be paid from the forfeiture fund into which the proceeds were deposited.

§ 363.51 [Removed and reserved]

■ 40. Remove and reserve § 363.51.

■ 41. Amend § 363.54 by revising the heading to read as follows:

§ 363.54 What is the minimum amount of a book-entry savings bond that I must hold in my account?

* * * * *

■ 42. Amend § 363.55 by revising paragraph (a) to read as follows:

§ 363.55 May I transfer my book-entry savings bond to another person?

(a) You may transfer a savings bond or a portion of a savings bond to the TreasuryDirect account of another individual in a minimum amount of \$25. The transfer may only be made as a gift or in response to a final judgment,

court order, divorce decree, or property settlement agreement. You must certify online that the transfer is a gift or a specified exception.

* * * * *

■ 43. Remove the undesignated center heading "Registration", located prior to 363.65.

§§ 363.65–363.69 [Removed and reserved]

■ 44. Remove and reserve §§ 363.65, 363.66, 363.67, 363.68, and 363.69.

■ 45. Amend § 363.83 by revising the heading to read as follows:

§ 363.83 May an account owner transfer a book-entry savings bond to a minor?

* * * * *

■ 46. Remove the undesignated center heading "Deceased Owners," located prior to § 363.90.

§ 363.90 [Removed and reserved]

■ 47. Remove and reserve § 363.90.

■ 48. Amend § 363.95 by revising the heading and the introductory text to read as follows:

§ 363.95 How may I give a book-entry savings bond as a gift?

You may give a book-entry savings bond as a gift in two ways:

* * * * *

■ 49. Amend § 363.97 by revising the heading to read as follows:

§ 363.97 What do I need to know if I transfer a book-entry savings bond to another person as a gift?

* * * * *

■ 50. Remove the undesignated center heading "Transactions," located prior to § 363.105.

§§ 363.105–363.107 [Removed and reserved]

■ 51. Remove and reserve §§ 363.105, 363.106, and 363.107.

■ 52. Remove the undesignated center heading "Judicial and Administrative Proceedings," located prior to § 363.110.

§§ 363.110–363.119 [Removed and reserved]

■ 53. Remove and reserve §§ 363.110 through 363.119.

■ 54. Amend § 363.125 by revising the heading to read as follows:

§ 363.125 How is payment made on a book-entry savings bond?

* * * * *

■ 55. Remove § 363.146.

§§ 363.147–363.149 [Removed and reserved]

■ 56. Remove and reserve §§ 363.147–363.149.

§ 363.150 [Reserved]

■ 57. Redesignate § 363.150 as § 363.146 and reserve § 363.150.

§§ 363.151–363.152 [Removed and reserved]

■ 58. Remove and reserve §§ 363.151 and 363.152.

■ 59. Amend § 363.160 by revising paragraph (a)(4) to read as follows:

§ 363.160 What subparts govern the conversion of definitive savings bonds?

(a) * * *

(4) Converted savings bonds of all series that are held as gift bonds by the person who converted the bonds.

* * * * *

■ 60. Amend § 363.165 by revising the heading and the first sentence of paragraph (b) to read as follows:

§ 363.165 What happens when I convert a savings bond that is registered in my name as the owner, either coowner, or the owner with a beneficiary?

* * * * *

(b) *Savings bond that has reached final maturity.* A savings bond that has reached final maturity and is registered in the name of the Treasury Direct account owner as single owner, either coowner, or owner with beneficiary, will be converted to a book-entry bond and automatically redeemed. * * *

■ 61. Amend § 363.166 by:

■ a. Revising the heading and the first sentence of paragraph (b)(1); and

■ b. Revising the heading and first sentence of paragraph (b)(2), to read as follows:

§ 363.166 What happens when I convert a savings bond that is not registered in my name as owner, either coowner, or owner with beneficiary (including a bond registered in the name of a minor)?

* * * * *

(b) *Savings bond that has reached final maturity.* (1) *General.* A savings bond that has reached final maturity and is registered in the name of someone other than the account owner will be converted to a book-entry bond, released as a gift bond into the account owner's conversion linked account, and automatically redeemed. * * *

(2) *Delivery of bond proceeds to registered owner.* If the gift bond has reached final maturity and has been automatically redeemed, then the Treasury Direct account owner may direct that the held redemption proceeds be delivered to the Treasury Direct account of the registered owner (or minor linked account, if the registered owner is a minor), where we will use the proceeds to purchase a certificate of indebtedness in the name of the registered owner. * * *

§§ 363.172–363.174 [Removed and reserved]

■ 62. Remove and reserve §§ 363.172, 363.173, and 363.174.

§ 363.175 [Removed and reserved]

■ 63. Remove and reserve § 363.175.

§ 363.177 [Removed and reserved]

■ 64. Remove and reserve § 363.177.

§ 363.178 [Removed and reserved]

■ 65. Remove and reserve § 363.178.

Dated: September 26, 2005.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 05–19551 Filed 9–27–05; 12:41 pm]

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(As of July 2005)

31 CFR Part 357

Regulations Governing Book-Entry Treasury Bonds, Notes and Bills

*Department of the Treasury Circular,
Public Debt Series No. 2-86*

PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 2–86)

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APPENDIX A TO PART 357—DISCUSSION OF FINAL RULE

APPENDIX B TO PART 357—TRADES COMMENTARY

AUTHORITY: 31 U.S.C. chapter 31; 5 U.S.C. 301; 12 U.S.C. 391.

SOURCE: 51 FR 18265, May 16, 1986, unless otherwise noted.

Subpart A—General Information

§357.0 Book-entry systems.

(a) *Treasury bills, notes and bonds.* Treasury bills, notes and bonds shall be maintained in either of the following two book-entry systems:

(1) *Treasury/Reserve Automated Debt Entry System (TRADES).* A Treasury security is maintained in TRADES if it is credited by a Federal Reserve Bank to a Participant's Securities Account. See subpart B of this part for rules pertaining to TRADES.

(2) *TREASURY DIRECT Book-entry Securities System (TREASURY DIRECT).* A Treasury security is maintained in TREASURY DIRECT if it is credited to a TREASURY DIRECT account as described in §357.20. Such accounts may be accessed by investors in accordance with subpart C of this part through a designated Federal Reserve Bank or the Bureau of the Public Debt. See subpart C of this part for rules pertaining to TREASURY DIRECT.

(b) *Transferability between TRADES and TreasuryDirect.* A Treasury security eligible to be maintained in TreasuryDirect under the terms of its offering circular or pursuant to notice published by the Secretary may be transferred to or from an account in TRADES from or to an account in TREASURY DIRECT in accordance with § 357.22(a).

(c) *New Treasury Direct System (New Treasury Direct).* New Treasury Direct is an online (Internet-based), book-entry system maintained by Treasury. The *TreasuryDirect* system is a separate book-entry system for marketable Treasury securities only. The regulations governing New Treasury Direct are found at part 363, and are substantially different from the terms and conditions of securities held in *TreasuryDirect*.

[67 FR 64278, Oct. 17, 2002]

§ 357.1 Effective date.

Subpart B of this part, the definitions of *Adverse Claim*, *Book-entry Security*, *Entitlement Holder*, *Federal Reserve Bank Operating Circular*, *Funds Account*, *Issue*, *Participant*, *Participant's Securities Account*, *Person*, *Revised Article 8*, *Securities Intermediary*, *Security Entitlement*, *State*, and *Transfer Message* and revisions to the definitions of *Security* and *TRADES*, and §§ 357.42 and 357.44 and the revisions to § 357.41 are effective January 1, 1997. All other provisions in effect prior to January 1, 1997, remain in effect.

[61 FR 43628, Aug. 23, 1996]

§ 357.2 Definitions.

In this part, unless the context indicates otherwise:

Adverse Claim means a claim that a claimant has a property interest in a Security and that it is a violation of the rights of the claimant for another Person to hold, transfer, or deal with the Security.

Bill means an obligation of the United States, with a term of not more than one year, issued at a discount, under chapter 31 of title 31 of the United States Code, in book-entry form.

Bond means an obligation of the United States, with a term of more

than ten years, issued under chapter 31 of title 31 of the United States Code, in book-entry form.

Book-entry Security means, in subpart B of this part, a Treasury Security maintained in TRADES and, in subpart C of this part, a Treasury Security maintained in TREASURY DIRECT.

Business day means any day other than a Saturday, Sunday, or other day on which the Federal Reserve Banks are not open for business.

Department means the United States Department of the Treasury, and, where appropriate, the Federal Reserve Banks acting as fiscal agents of the United States.

Depository institution means an entity described in section 19(b)(1)(A)(i)-(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)-(vi)). Under section 19(b) of the Federal Reserve Act, the term *depository institution* includes:

(1) Any insured bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(2) Any mutual savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(3) Any savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(4) Any insured credit union as defined in 12 U.S.C. 1752 or any credit union which is eligible to make application to become an insured credit union under 12 U.S.C. 1781;

(5) Any member as defined in 12 U.S.C. 1422; and

(6) Any savings association (as defined in 12 U.S.C. 1813) which is an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 U.S.C. 1811, *et seq.*, or is eligible to apply to become an insured depository institution under such Act.

Entitlement Holder means a Person to whose account an interest in a Book-entry Security is credited on the records of a Securities Intermediary.

Federal Reserve Bank or *Reserve Bank* means a Federal Reserve Bank or Branch.

Federal Reserve Bank Operating Circular means the publication issued by

each Federal Reserve Bank that sets forth the terms and conditions under which the Reserve Bank maintains Book-entry Securities accounts and transfers Book-entry Securities.

Financial institution means, for purposes of direct deposit, an institution which has agreed to receive credit payments under 31 CFR part 210, as amended from time to time, and has not withdrawn its participation in a direct deposit program under part 210, or an institution which is willing to agree to receive credit payments under 31 CFR part 210 and has enrolled with its Federal Reserve Bank.

Funds Account means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, book-entry securities transaction fees, or principal and interest payments.

Incompetent means an individual who is legally, medically or mentally incapable of handling his or her business affairs, except that a minor is not an incompetent solely because of age.

Issue means a group of securities, as defined in this section, that is identified by the same CUSIP (Committee on Uniform Securities Identification Practices) number.

Maturity value is the amount that the Department is obligated to pay when a security matures.

Minor means an individual who is under the age of majority, as determined by applicable state law.

Note means an obligation of the United States, with a term of at least one year, but of not more than ten years, issued under chapter 31 of title 31 of the United States Code, in book-entry form.

Original issue means the offering by the Department of the Treasury of a marketable Treasury security to the public and its issuance in book-entry accounts maintained either directly by the Treasury or held through a Federal Reserve Bank.

Owner, as used in subpart C, means the individual(s) or entity in whose name a security is registered. If a security is registered in more than one name, the term *owner* includes all those whose names appear on the registration and are authorized by this Part to

make a transaction request on a security held in TREASURY DIRECT.

Participant means a Person that maintains a Participant's Securities Account with a Federal Reserve Bank.

Participant's Securities Account means an account in the name of a Participant at a Federal Reserve Bank to which Book-entry Securities held for a Participant are or may be credited.

Person means and includes an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative and any other similar organization, but does not mean or include the United States or a Federal Reserve Bank.

Redemption means payment of a security at maturity, or pursuant to a call for redemption in accordance with the terms of a security.

Representative includes an executor, administrator, legal guardian, committee, conservator, and any similar person or entity appointed by a court to represent the estate of a decedent, minor, or incompetent, as well as a trustee, whether appointed by a court or otherwise.

Revised Article 8 means Uniform Commercial Code, Revised Article 8, Investment Securities (with Conforming and Miscellaneous Amendments to Articles 1, 3, 4, 5, 9 and 10) 1994 Official Text. The Director of the Federal Register approves the incorporation by reference of Revised Article 8 of the Uniform Commercial Code in this part, pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. Revised Article 8 was adopted by the American Law Institute and the National Conference of Commissioners On Uniform State Laws and approved by the American Bar Association on February 14, 1995. Copies of Revised Article 8 are available from the Executive Office of the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and the National Conference of Commissioners on Uniform State Laws, 211 East Ontario Street, Suite 1300, Chicago, IL 60611. Copies are also available for public inspection at the Department of the Treasury Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW, Washington, DC 20220 or at the National Archives and Records Administration

(NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Revised Article 9 means Uniform Commercial Code, Revised Article 9, Secured Transactions (with conforming amendments to Articles 1, 2, 2A, 4, 5, 6, 7, and 8), 1999 official text. The Director of the Federal Register approves the incorporation by reference of Revised Article 9 of the Uniform Commercial Code in this part, pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. Revised Article 9 was approved by the American Law Institute and the National Conference of Commissioners On Uniform State Laws in 1998. Copies of Revised Article 9 are available from the Executive Office of the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and the National Conference of Commissioners on Uniform State Laws, 211 East Ontario Street, Suite 1300, Chicago, IL 60611. Copies are also available for public inspection at the Department of the Treasury Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Securities Intermediary means:

(1) A Person that is registered as a “clearing agency” under the federal securities laws; a Federal Reserve Bank; any other person that provides clearance or settlement services with respect to a Book-entry Security that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority; or

(2) A Person (other than an individual, unless such individual is registered as a broker or dealer under the federal securities laws) including a

bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

Security means a bill, note, or bond, each as defined in this section. It also means any other obligation issued by the Department that, by the terms of the applicable offering circular or announcement, is made subject to this part. Solely for purposes of this part, it also means:

(1) The interest and principal components of a security eligible for Separate Trading of Registered Interest and Principal of Securities (“STRIPS”), if such security has been divided into such components as authorized by the express terms of the offering circular under which the security was issued and the components are maintained separately on the books of one or more Federal Reserve Banks; and

(2) The interest coupons that have been converted to book-entry form under the Treasury’s Coupons Under Book-Entry Safekeeping Program (“CUBES”), pursuant to agreement and the regulations in 31 CFR part 358.

Security Entitlement means the rights and property interest of an Entitlement Holder with respect to a Book-entry Security.

Signature guarantee program means a signature guarantee program established in response to Rule 17 Ad-15 (17 CFR 240.17Ad-15), issued under authority of the Securities Exchange Act of 1934. For the purpose of the regulations in this part, the Securities Transfer Agents Medallion Program (STAMP), the Stock Exchanges Medallion Program (SEMP), and the New York Stock Exchange, Inc. Medallion Signature Program (MSP) are recognized by Treasury as such signature guarantee programs.

State means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

Taxpayer identifying number or *TIN* means a social security account number or an employer identification number, as appropriate.

TRADES is the Treasury/Reserve Automated Debt Entry System, also

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referred to as the commercial book-entry system.

Transaction request means a request to effect a change in an account master record or securities portfolio maintained in TREASURY DIRECT.

Transaction request form means a form or series of forms prescribed for use by the Department to request a transaction in TREASURY DIRECT. (This term includes a document that the Department has determined contains all of the elements required by the transaction request form.)

Transfer Message means an instruction of a Participant to a Federal Reserve Bank to effect a transfer of a Book-entry Security maintained in TRADES, as set forth in Federal Reserve Bank Operating Circulars.

TREASURY DIRECT is the TREASURY DIRECT Book-Entry Securities System.

[51 FR 18265, May 16, 1986, as amended at 59 FR 59038, Nov. 15, 1994. Redesignated and amended at 61 FR 43628, Aug. 23, 1996; 62 FR 18694, Apr. 16, 1997; 62 FR 33548, June 20, 1997; 67 FR 7079, Feb. 15, 2002; 69 FR 18803, Apr. 9, 2004]

Subpart B—Treasury/Reserve Automated Debt Entry System (TRADES)

SOURCE: 67 FR 7080, Feb. 15, 2002, unless otherwise noted.

If a security interest in a security entitlement is—	And it is—	Then it is governed by—
(1) in favor of a Federal Reserve Bank from a Participant.	not recorded on the books of a Federal Reserve Bank pursuant to § 357.12(e)(2).	the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located.
(2) in favor of a Federal Reserve Bank from a Person that is not a Participant.	not recorded on the books of a Federal Reserve Bank pursuant to § 357.12(e)(2).	the law determined in the manner specified in § 357.11.

(c) *What law governs if the jurisdiction in paragraph (b)(1) of this section did not adopt Revised Article 8, or Revised Article 8 as amended by Revised Article 9 (both incorporated by reference, see Sec. 357.2)?* The law specified in paragraph (b)(1) of this section shall be the law of that State as though that State adopted Revised Article 8.

§ 357.10 Laws governing a Treasury book-entry security, TRADES, and security interests or entitlements.

(a) *What law governs the rights and obligations of the United States and the Federal Reserve Banks; and the rights of any Person against the United States and the Federal Reserve Banks?* Except as we provide in paragraph (b) of this section, the following are governed solely by Treasury regulations, including the regulations of this part, the applicable offering circular (which is 31 CFR part 356, in the case of securities issued on and after March 1, 1993), the announcement of the offering, and Federal Reserve Bank Operating Circulars:

(1) The rights and obligations of the United States and the Federal Reserve Banks with respect to a Book-entry Security or Security Entitlement and the operation of TRADES, and

(2) The rights of any Person, including a Participant, against the United States and the Federal Reserve Banks with respect to a Book-entry Security or Security Entitlement and the operation of TRADES.

(b) *What law governs security interests in Security Entitlements that are not recorded on a Federal Reserve Bank's books?* See the following table:

§ 357.11 Laws governing other interests in Treasury securities.

(a) *What does the law (not including the conflict-of-law rules) of a Securities Intermediary's jurisdiction govern?* To the extent not inconsistent with these regulations, the law (not including the conflict-of-law rules) of a Security Intermediary's jurisdiction governs the following:

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(1) When a Person acquires a Security Entitlement from the Securities Intermediary;

(2) The rights and duties of the Securities Intermediary and Entitlement Holder that arise out of a Security Entitlement;

(3) Whether the Securities Intermediary owes any duties to an adverse claimant to a Security Entitlement;

(4) Whether a Person may assert an Adverse Claim against a Person who acquires a Security Entitlement from

the Securities Intermediary or against a Person who purchases a Security Entitlement or interest therein from an Entitlement Holder; and

(5) The perfection, effect of perfection or non-perfection and priority of a security interest in a Security Entitlement (except as otherwise provided in paragraph (c) of this section).

(b) *What is the "Securities Intermediary's jurisdiction" for purposes of this section?* See the following table:

If . . .	Then the securities intermediary's jurisdiction is . . .
(1) An agreement between the Securities Intermediary and its Entitlement Holder governing the securities account expressly provides that a particular jurisdiction is the Securities Intermediary's jurisdiction for purposes of Part 1 of Article 8 of the Uniform Commercial Code, Article 8 of the Uniform Commercial Code, or the Uniform Commercial Code.	the jurisdiction agreed upon.
(2) An agreement between the Securities Intermediary and its Entitlement Holder governing the securities account expressly provides that it is governed by the law of a particular jurisdiction.	the jurisdiction agreed upon.
(3) The statements in paragraphs (b)(1) and (2) of this table do not apply, but the agreement expressly specifies that the securities account is maintained at an office in a particular jurisdiction.	the jurisdiction where the office is located.
(4) The statements in paragraphs (b)(1) through (3) of this table do not apply and an account statement identifies the office serving the Entitlement Holder's account.	the jurisdiction where the office is located.
(5) None of the statements in paragraphs (b)(1) through (4) of this table apply	the jurisdiction in which the chief executive office of the Securities Intermediary is located.

(c) *What law governs the perfection of a security interest automatically or by filing?* The law (but not the conflict-of-law rules) of the jurisdiction in which the Person creating a security interest is located governs whether and how the security interest may be perfected automatically or by filing a financing statement. (This is despite the general rule in (a)(5) of this section).

(d) *Where is a Person located, for purposes of paragraph (c) of this section?* A Person's location is determined under state law, including Revised Article 9 (incorporated by reference, see §357.2), as it may be amended from time to time.

(e) *What law governs if the jurisdiction in table (b) of this section did not adopt Revised Article 8 or Revised Article 8 as amended by Revised Article 9 (both incorporated by reference, see §357.2)?* The law for the matters specified in paragraph

(a) of this section shall be the law of that State as though the State adopted Revised Article 8.

(f) *What other rules apply?* For purposes of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the Securities Account is a clearing corporation and the Participant's interest in a Book-entry Security is a Security Entitlement.

§ 357.12 A Participant's Security Entitlement.

(a) *How is a Participant's Security Entitlement created?* A Federal Reserve Bank indicates by book entry that a Book-entry Security has been credited to a Participant's Securities Account.

(b) *What else do I need to know about a Participant's Security Entitlement?* See the following table:

If a security interest in a security entitlement of a participant . . .	Then . . .
(1) Meets all of the following criteria:	

If a security interest in a security entitlement of a participant . . .	Then . . .
(i) is in favor of the United States	it is created; it is perfected; and it has priority over any other interest in the securities.
(ii) is marked on the books of a Federal Reserve Bank	
(iii) is to secure deposits of public money (including without limitation deposits to the Treasury tax and loan accounts, or other security interest required by Federal statute, regulation, or agreement).	

(c) *What is the effect of the marking of a security interest in favor of the United States in a Security Entitlement of a Participant on the books of a Federal Reserve Bank?* Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized Representative of the United States directing the transfer of the Security.

(d) *Who is an authorized Representative of the United States, for purposes of paragraph (c) in this section?* The official designated in the applicable regulations or in an agreement to which a Federal Reserve Bank is a party, governing the security interest.

(e)(1) *Must the United States and the Federal Reserve Banks agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person?* No, they need not agree to act or recognize any party's interest, except:

(i) To the extent of any specific requirement of Federal law or regulation, or

(ii) To the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded.

(2) *May a security interest be created and perfected by a Federal Reserve Bank marking its books?* Yes, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank or a Person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest to the extent required by law, regulation, or an agreement with a Federal Reserve Bank or the Federal Reserve Bank Operating Circular.

(3) *Does this security interest have priority over other interests?* A security interest in a Security Entitlement marked on the books of a Federal Re-

serve Bank has priority over any other interest in the securities, except a security in favor of the United States, as provided in table (b) of this section.

(4) *In addition to the method provided in paragraph (e)(2) of this section, may a security interest, including a security interest in favor of a Federal Reserve Bank, be perfected in another way?* Yes, a security interest may be perfected by any method under applicable law as described in §357.10(b) or §357.11.

(i) The applicable law governs the perfection, effect of perfection or non-perfection and priority of a security interest.

(ii) A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under that law.

(iii) A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for these purposes.

§357.13 Obligations of the United States and the Federal Reserve Banks with respect to Book-entry Securities and security interests.

(a) *Who is entitled to deal with an interest in a Book-entry Security that has been credited to a Participant's Security Account?* Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in §357.12 (e), for the purposes of this subpart B, the United States and the Federal Reserve Banks treat the Participant as exclusively entitled to perform the following functions, even if the Treasury or a Federal Reserve Bank has any information or notice to the contrary:

- (1) Issue a Transfer Message,
- (2) Receive interest and other payments with respect thereof, and
- (3) Exercise all the rights and powers with respect to the Security,

(b) *Are the Federal Reserve Banks and Treasury liable for Adverse Claims?* The

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Federal Reserve Banks and Treasury are not liable to a Person asserting or having an Adverse Claim to a Security Entitlement or to a Book-entry Security in a Participant's Securities Account. This includes any such claim arising as a result of the transfer or disposition of a Book-entry Security by a Federal Reserve Bank, pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

(c) *When is the obligation of the United States to pay interest and principal with respect to Book-entry Securities discharged?* The obligation is discharged once payment is made as follows:

(1) A Federal Reserve Bank credits the appropriate amount of interest on Book-entry Securities to a Funds Account maintained at the Bank, or pays it as directed by the Participant.

(2) Book-entry Securities are redeemed according to their terms, a Federal Reserve Bank withdraws the securities from the Participant's Securities Account in which they are maintained, and either:

(i) Credits the amount of the Redemption proceeds, including both principal and interest, where applicable, to a Funds Account at the Bank, or

(ii) Pays such principal and interest as directed by the Participant.

(d) *What does a Participant need to do in connection with the Redemption of a Book-entry Security?* No action by the Participant is required.

§ 357.14 What authority does a Federal Reserve Bank have?

(a) Each Federal Reserve Bank has the authority as fiscal agent of the United States to:

(1) Perform functions with respect to the issuance of Book-entry Securities offered and sold by the Department to which this subpart applies, in accordance with the terms of the applicable offering circular and with procedures established by the Department;

(2) Service and maintain Book-entry Securities in accounts established for such purposes;

(3) Make payments of principal and interest, as directed by the Department;

(4) Effect transfer of Book-entry Securities between Participants' Securities

Accounts as directed by the Participants; and

(5) Perform such other duties as fiscal agent that the Department may request.

(b) Each Federal Reserve Bank may issue Operating Circulars that are consistent with this part, governing the details of its handling of Book-entry Securities, Security Entitlements, and the operation of the book-entry system under this part.

§ 357.15 How can a debtor's interest in a Security Entitlement be reached by creditors?

(a) The interest of a debtor may be reached by creditors only by legal process upon the Securities Intermediary with whom the debtor's securities account is maintained. Exception: If a Security Entitlement is maintained in the name of a secured party, the debtor's interest may be reached by legal process upon the secured party.

(b) These regulations do not state whether a Federal Reserve Bank is required to honor an order or other notice of attachment in any particular case or class of cases.

Subpart C—Treasury Direct Book-Entry Securities System (TREASURY DIRECT)

§ 357.20 Securities account in TREASURY DIRECT.

(a) *Account.* A securities account consists of:

(1) An account master record, and

(2) A securities portfolio.

(b) *Security.* A security in TREASURY DIRECT is evidenced by the account master record and a description of the security as set out in the securities portfolio associated with an account master record.

(c) *Account master record.* An owner must establish an account master record before the owner may deposit a security in TREASURY DIRECT. If the security is being purchased on original issue, the request that an account master record be established may be made on the form used for purchase of the security. If the security is being acquired other than on original issue, the request that an account master record be

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established should be made on the appropriate form that is provided by the Department. The account master record includes, but is not limited to, the following data:

(1) The exact form of registration in which the securities are held;

(2) The TREASURY DIRECT account number;

(3) The correspondence address for the account;

(4) The TIN of the owner, or in the case of ownership by two individuals, of the first-named owner; and

(5) Payment instructions. (See § 357.26.)

(d) *Securities portfolio.* The securities portfolio contains a description of each security and is the aggregate of all securities in the securities account.

(e) *Statement of account.* The Department shall send a statement of account (statement):

(1) Upon the establishment of an account master record;

(2) Upon a change in the securities portfolio;

(3) At an owner's request; or

(4) Upon the determination on December 31 that an owner has not received a statement of account for that current calendar year.

The statement shall contain information regarding the account as of the date of such statement. The price associated with each security in the securities portfolio will also appear on the statement.¹ The statement may be sent

to the correspondence address designated in the account master record, or may be sent by electronic means. When the statement is issued as a result of a change in ownership of a security, statements will be sent, where appropriate, to both the former and current owners. Other information regarding the account may be obtained in accordance with § 357.24.

(f) *Confirmation notice.* The Department shall send a confirmation notice (notice):

(1) Upon a change in an account master record;

(2) Upon scheduling or canceling a re-investment; or

(3) To confirm the interest earned on a Treasury Inflation Indexed Security. The notice shall contain information regarding the account as of the date of such confirmation. The notice may be sent to the correspondence address designated in the account master record, or may be sent by electronic means. All changes reflected in paragraph (f) (1) and (2) of this section will be included in the next regularly scheduled statement of account. See paragraph (e) of this section for the statement schedule.

tions or supplied subsequently by the transferee. If a price is not furnished, the price shown will be the weighted average price at original issue of the bill of the longest maturity having the identical CUSIP number, unless the term of the bill can be determined from the account record in which case the price shown will be the weighted average price at original issue of the bill with that term.

(2) If the security is a note or bond, the earnings reported to IRS for a year will be the periodic interest payments made during that year. If a note or bond is transferred to a TREASURY DIRECT account between interest payment dates, the earnings reported to IRS for the transferee will show the interest for the entire interest payment period. The price for notes and bonds will be shown on the statement of account for the account owner's information. The price shown will be determined following the procedures described above for bills.

(3) The security owner should report directly to the IRS (a) adjustments to annual earnings amounts arising from acquisition of notes and bonds between interest payment periods and (b) price corrections for bills reported after preparation of the reports to the IRS.

¹IRS regulations require reporting of income information on a security.

(1) If the security is a bill, the price information will be used to comply with this requirement. The earnings reported to IRS for the year of a bill's maturity will be the difference between the par value of the bill and its price.

(a) If a bill is deposited in TREASURY DIRECT at original issue, the price shown will be the issue price.

(b) If a bill is transferred to TREASURY DIRECT from TRADES, the price shown will be that included in the transfer wire or supplied subsequently by the bill owner. If a price is not furnished, the price shown will be the weighted average price of the bill of the longest maturity having the identical CUSIP number.

(c) If a bill is transferred from one TREASURY DIRECT account to another, the price shown in the receiving (transferee's) account will be that shown on the transfer instruc-

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(g) *Account maintenance fees.* An annual maintenance fee shall be charged for each TREASURY DIRECT securities account holding securities that in the aggregate exceed a stipulated par amount. The amount of the fee will be published by notice in the FEDERAL REGISTER.

(Approved by the Office of Management and Budget under control number 1535-0068)

[51 FR 18265, May 16, 1986, as amended at 60 FR 4377, Jan. 23, 1995; 62 FR 18004, Apr. 11, 1997; 62 FR 32033, June 12, 1997]

§ 357.21 Registration.

(a) *General.* (1) Registration of a security conclusively establishes ownership, except in the case of partnership nominees, in which case the Department reserves the right to treat the registration as conclusive of ownership. The registration may not, except as provided in this Subpart, include any restriction on the authority of an owner to change the data in the account master record, transfer the security, or effect any other change in the securities portfolio.

(2) The registration of all securities held by an owner should be uniform with respect to the owner's name. An owner must be identified by the name by which the owner is ordinarily known, preferably including at least one full given name. A suffix, such as *Sr.* or *Jr.*, must be included when ordinarily used, or when necessary to distinguish members of the same family.

(3) If an additional security is deposited in an existing account, the security will be registered in the same name and form of registration that appears in the designated account master record. One who holds a security as *John Allen Doe* should use that name when depositing another security rather than *J. Allen Doe*, or *John A. Doe*. *Minor variations in names used in acquiring a security to be deposited in an established account may be resolved by the Department.*

(b) *Natural persons.* A security may be registered in the names of one or two individuals, but only in one of the following forms:

(1) *Single ownership.* In the name of one individual.

Example: Robert W. Woods

An individual who is sole proprietor of a business conducted under a trade name may include a reference to the trade name.

Example: John A. Doe, doing business as Doe's Home Appliance Store.

(2) *Ownership by two individuals—(i) "And" form—Joint Ownership—(A) Without right of survivorship.* In the names of two individuals, joined by the word "and", and followed by the words "without right of survivorship". A security so registered shall conclusively confer on each owner an undivided interest in the security.

Example: Elizabeth Black and Jane Brown, without right of survivorship.

Any request for registration which purports, by its terms, to preclude the right of survivorship, or which requests registration in the names of two persons without indicating whether survivorship rights attach (other than a registration under paragraph (b)(2)(ii) of this section), will be presumed to be a request for registration without right of survivorship. If a security is registered in this form, a transaction request, other than a request by one owner to transfer the security to the other owner, and other than a request for reinvestment, must be executed by both owners.

(B) *With right of survivorship.* In the names of two individuals, joined by the word "and", and followed by the words "with right of survivorship". A security so registered shall confer on each owner an undivided interest in the security and shall create a conclusive right of survivorship.

Example: Mark A. Doe and Mary B. Doe, with right of survivorship.

If a security is registered in this form, a transaction request, other than a request by one owner to transfer the security to the other owner, and other than a request for reinvestment, must be executed by both owners.

(ii) *"Or" form—Coownership.* In the names of two individuals, joined by the word "or". A security so registered shall confer on each owner an undivided interest in the security and shall create a conclusive right of survivorship.

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Example: Robert Woods or Laura Woods.

If a security is registered in this form, either coowner may make a transaction request, but if the Department receives conflicting requests at or about the same time, it may refuse to process them.

(iii) *Beneficiary.* In the name of one individual followed by the words “Payable on death to” (or “P.O.D.”) another individual.

Example: Jack S. Jones, payable on death to Marie Jones.

If a minor or an incompetent is named as a beneficiary, the status of the beneficiary must be identified in the registration. A minor or an incompetent may not be designated as an owner. See paragraphs (b)(3) and (4) of this section.

Example: John Perry, P.O.D. John Perry, Jr., a minor.

Registration in this form shall create ownership rights in the beneficiary only if the beneficiary survives the owner. During an owner’s lifetime, a transaction request may be executed by the owner without the consent of the beneficiary. If the beneficiary dies before the owner, the security will be deemed to be registered in the owner’s name alone.

(3) *Minors*—(i) *General.* A security may not be registered in the name of a minor in his or her own right as an owner. If a security is so registered and the Department thereafter receives evidence or information of that fact, the Department may suspend processing of any transaction request with respect to the security until either a legal guardian has been appointed or a natural guardian, as provided in paragraph (b)(3)(ii) of this section, has been recognized. Where a legal guardian is appointed, the Department will require a certified copy of the court order making such appointment. See § 357.28(c).

(ii) *Natural guardians of minors.* A security may be registered in the name of a natural guardian of a minor for whose estate no legal representative has been appointed. The parent with whom the minor resides will be recognized as the natural guardian. If the minor resides with both parents, either or both may be recognized as natural guardian(s). If the minor does not re-

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side with either parent, the Department may recognize the person who furnishes the minor’s chief support as the natural guardian.

Examples: Michael Jones, as natural guardian of Alice Jones, a minor.

Michael Jones and Evelyn Jones, as natural guardians of Alice Jones, a minor.

The security may also be registered in one of the forms authorized under paragraph (b)(2) of this section.

Examples: James Green, as natural guardian of William Green, a minor, and Anne Green, without right of survivorship.

James Green, as natural guardian of William Green, a minor, POD Lynne Green.

(iii) *Custodian under statute authorizing gifts to minors.* A security may be registered as provided under an applicable gift to minors statute.

Example: Virginia McDonald, as custodian for Lynne Gorman, under the New York Uniform Gifts to Minors Act.

Any request to alter the rights of ownership of the security must be made as provided in the applicable statute.

(4) *Incompetents*—(i) *General.* A security may not be registered in the name of an individual in his or her own right as an owner if that individual is incompetent. If a security is so registered, or if the owner subsequently becomes incompetent after the security is purchased, and the Department receives evidence or information of that fact, the Department may suspend any transaction with respect to the security until a legal guardian, conservator, or other representative of the incompetent’s estate has been appointed, or a voluntary guardian, as provided in paragraph (b)(3)(ii) of this section, has been recognized. Where a legal guardian, conservator, or other representative is appointed, the Department will require a certified copy of the court order making such appointment. See § 357.28(c).

(ii) *Voluntary guardian of incompetent.* If a legal guardian has not been appointed, and the face amount of the securities held in one or more accounts in TREASURY DIRECT by an owner who had become incompetent does not exceed, in the aggregate, \$20,000 (par

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amount), upon submission to, and approval by, the Department of an appropriate form, a relative or other person responsible for an incompetent's care and support will be recognized as voluntary guardian for purpose of making a transaction request under § 357.28(b)(4). All persons known by the Department to have an interest in the incompetent's estate, as required by the application form, must agree to the designation of the voluntary guardian. The security may be re-registered in the name of the voluntary guardian.

Example: Richard Melrose, as voluntary guardian for James W. Brundige.

(c) *Representatives.* A security may be registered in the name of a representative of an estate. If there is more than one representative, the names of some representatives may be omitted if followed by language that indicates the existence of other representatives. In such cases, those named in the registration shall be conclusively presumed by the Department to have authority to make a transaction request on behalf of all the representatives. The form of registration must identify the specific capacity of the representative(s) and the estate represented.

Examples: ABC National Bank of Chicago, Illinois and Harold Smith, co-executors of the will (or administrators of the estate) of Charles Johnson, deceased.

William Brown, guardian of the estate of Henry Jones, a minor.

Robert Smith, Richard Smith, *et al.*, executors of the will of Lorraine Smith, deceased.

If the representative is a trustee, the form of registration must identify specifically the authority or document creating the trust.

Examples: Sarah Jones and XYZ Trust Co., trustees under the will of Matthew Smith, deceased.

Cynthia Doe and Margaret Jones, trustees under agreement with Martha Roe, dated April 13, 1979.

Cynthia Doe, trustee under declaration of trust, dated April 13, 1979.

Richard Smith, James Jones, and Frank Brown, trustees under the will of Henry K. James, deceased.

ABC Corporation, Myrna Banker, *et al.*, trustees of Profit-Sharing Plan of Ace Manufacturing Co., under B/D resolution, dated May 18, 1975.

If there are several trustees designated as a board or authorized to act as a unit, their names should be omitted and the words, "Board of Trustees" substituted.

Example: Board of Trustees of Super Co. Retirement Fund, under collective bargaining agreement, dated March 18, 1969.

An organization (other than a bank) or individual seeking to act as trustee or custodian of an Individual Retirement Account ("IRA"), must be authorized to so act by the Internal Revenue Service. As appropriate, registration of the security should be in the form shown below:

Examples: ABC Bank, trustee for John Doe IRA, under agreement dated December 21, 1990.

EFG Broker, Inc., custodian for Mary Smith IRA, under agreement dated September 4, 1991.

(d) *Private organizations (corporations, unincorporated associations and partnerships).* A security may be registered in the name of a private corporation, unincorporated association, or partnership. The full legal name of the organization, as set forth in its charter, articles of incorporation, constitution, partnership agreement, or other documents from which its powers are derived, must be included in the registration. The name may be followed by a reference to a particular account or fund, other than a trust fund, such as an escrow account.

(1) *A corporation.* The legal name of a business, fraternal, religious, or other private corporation must be followed by descriptive words indicating the corporate status unless the term *corporation* or the abbreviation *Inc.* is part of the name or the name is that of a corporation or association organized under Federal law, such as a national bank or Federal savings and loan association.

Examples: Brown Manufacturing Co., a corporation (Education Fund).

The Apex Manufacturing Corporation.

XYZ National Bank of El Paso, TX.

Goodworks, Unlimited, a not-for-profit corporation.

(2) *An unincorporated association.* Unless the name of a lodge, club, labor

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union, veterans or religious organization, or similar organization which is not incorporated (whether or not it is chartered by or affiliated with a parent organization which is incorporated) includes the words *an unincorporated association*, the registration must include descriptive words indicating the organization's unincorporated status. A security may not be registered in the name of an unincorporated association if the legal title to its property or the legal title to the funds with which the security is to be purchased is held by trustees. In such a case, the security should be registered in the name of the trustees in accordance with paragraph (c) of this section. The term *unincorporated association* should not be used to describe a trust fund, a partnership or a business conducted under a trade name.

Examples: Local Union No. 13, Brotherhood of Operating Engineers, an unincorporated association.

The Simpson Society, an unincorporated association.

(3) *Partnership.* Unless the name of a partnership includes the word *partnership*, the registration must include descriptive words indicating partnership status.

Examples: Red & Blue, a partnership.
Abco and Co., a nominee partnership.

(e) *Governmental entities and officers.* A security may be registered in the name of a State, county, city, town, village, school district, or other governmental entity, body, or corporation established by law. If a governmental officer is authorized to act as a trustee or custodian, a security may be registered in the title, or name and title, of the governmental officer. The form of registration should reflect the capacity in which the governmental entity or officer is authorized to hold property (e.g., it may be authorized to hold property in its own name or as trustee or custodian).

Examples: Laura Woods, Treasurer, City of Twin Falls, Mo.

State of Michigan.

Village of Gaithersburg, Md.

Pennsylvania State Highway Administration (Highway Road Repair Fund).

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Insurance Commissioner of Florida, trustee for benefit of policy holders of Sunshine Insurance Co. under F.S.A. Sec. 629.104.

Commonwealth of Virginia, in trust for Virginia Surplus Property Agency.

Gleason County Cemetery Commission, trustee under Md. Code Ann. Sec. 310.29.

(f) *The United States Treasury.* A security may be registered in the name of an individual, with the United States Treasury as beneficiary, provided a reference to the statute which authorizes gifts to be made to the United States to reduce the public debt, is included.

Example: John S. Green, payable on death [or P.O.D.] to U.S. Treasury to reduce the public debt (31 U.S.C. 3113).

(Approved by the Office of Management and Budget under control number 1535–0068)

[51 FR 18265, May 16, 1986, as amended at 57 FR 38774, Aug. 27, 1992]

§ 357.22 Transfers.

(a) *General.* A security may be transferred only as authorized by this part. A security may be transferred from an account in *TreasuryDirect* to an account in TRADES, or from an account in TRADES to an account in *TreasuryDirect*. A security may also be transferred between accounts in *TreasuryDirect*. The Department may delay transfer of a newly purchased security from a *TreasuryDirect* account to an account in TRADES for a period not to exceed (30) calendar days from the date of issue. This provides time for the investor to become aware of any unauthorized debits.

(1) *Identification of securities to be transferred.* The owner must identify the securities to be transferred within TREASURY DIRECT, or from TREASURY DIRECT to TRADES, in the manner required by the transaction request form. If such identification is not provided, the request will not be processed and will be returned.

(2) *Denominational amounts.* A security may be transferred from an account only in a denominational amount authorized by the offering under which the security was issued. Any security remaining in the securities portfolio after the transfer must also be in an authorized denominational amount.

(3) *When transfer effective.* A transfer of a security within TREASURY DIRECT, or from TRADES to TREASURY DIRECT, is effective when an appropriate entry is made in the name of the transferee on the TREASURY DIRECT records. A transfer from TREASURY DIRECT to TRADES is effective as provided in Subpart B. If a transfer of a security from a transferor in TREASURY DIRECT to a transferee in TRADES cannot be completed, and the security is sent back to TREASURY DIRECT, the Department will re-deposit the security in the transferor's account and treat the transferor as the owner.

(b) *Transfer to Federal Reserve Bank for sale of securities in the secondary market.* (1) Upon authorization by the investor, an unmatured security may be transferred to a Federal Reserve Bank acting as the designated fiscal agent of the United States, to be sold on behalf of the investor.

(2) *Definitions.* In this section, unless the context indicates otherwise:

Dealer means an entity that is registered or has given notice of its status as a government securities broker or government securities dealer, pursuant to Section 15C(a)(1) of the Securities Exchange Act of 1934.

Par amount means the stated value of a security at original issuance.

Price means the dollar amount to be paid for a security expressed as a percent of its current par amount.

Security means any amount held in a TREASURY DIRECT account which is represented by a separate CUSIP number.

Settlement amount, also referred to as net amount, is the amount deposited by the Federal Reserve Bank to the account of the investor at the financial institution designated by the investor to receive TREASURY DIRECT payments. This amount is equal to the par amount of the securities multiplied by the price, plus any accrued interest, and less the transaction fee. For inflation indexed securities, the settlement amount also includes any applicable inflation adjustment, as provided in 31 CFR Part 356. The settlement amount may be less than the par amount of the security.

Settlement date is the date the settlement amount is released to the account at the financial institution designated by the investor for receipt of TREASURY DIRECT payments.

Trade date means the date on which the Federal Reserve Bank enters into an agreement with a dealer for the sale of the security.

Yield, also referred to as yield to maturity, means the annualized rate of return to maturity on a fixed principal security expressed as a percentage. For an inflation-indexed security, yield means real yield, as defined in 31 CFR part 356.

(3) *Procedure.* On an approved Treasury form, the owner must authorize a transfer of the security from the investor's TREASURY DIRECT account to the designated Federal Reserve Bank, and authorize the Federal Reserve Bank to sell the security. Rules in subpart C of this part governing the transfer of securities will apply to the transfer of the security to the Federal Reserve Bank. Generally, on the day that the security is transferred to the Federal Reserve Bank, the Federal Reserve Bank will make reasonable efforts to obtain a price quote from at least three dealers, and will enter into an agreement to sell the security to the dealer with the highest price quote for next day settlement. What constitutes reasonable effort shall be determined solely by the Federal Reserve Bank. On the next full business day after the trade date, the settlement amount shall be released by direct deposit (electronic funds transfer), as provided in § 357.26 of this part, to the account at the financial institution designated by the investor to accept TREASURY DIRECT payments, except when the Department determines that extraordinary circumstances exist that require payment by other means. In the event that the Federal Reserve Bank is unable to obtain at least one price quote for the security, the security will be returned to the TREASURY DIRECT account of the investor on the next full business day following the receipt of the securities by the Federal Reserve Bank, and the Federal Reserve Bank will notify the investor.

(4) *Confirmation.* The Federal Reserve Bank will send a confirmation of the

sale to the investor upon completion of the transaction. Such confirmation will include such information as price, trade date, settlement date, settlement amount, also referred to as net amount, transaction fee, and yield to maturity.

(5) *Price.* By authorizing the transfer and sale of the securities, the investor agrees to accept the price received by the Federal Reserve Bank from the dealer selected as having the highest price quote.

(6) *Transaction fee.* A transaction fee shall be charged for each security sold on behalf of the investor. If the Federal Reserve Bank is unable to complete the sale of the security, no fee will be charged. By authorizing the sale of the security, the investor authorizes the Federal Reserve Bank to withhold the transaction fee prior to the Federal Reserve Bank initiating the payment of the settlement amount to the account at the financial institution designated by the investor to receive TREASURY DIRECT payments. The amount of the transaction fee will be published by notice in the FEDERAL REGISTER.

(7) *Termination.* This service may be terminated at anytime without prior notice at the discretion of the Department.

(8) *Rights.* The provisions applicable to TREASURY DIRECT transactions in subpart C shall apply to this section. The provisions applicable to transactions in TRADES in subpart B shall not apply to this section.

(9) *Irrevocability.* The authorization of the investor for the transfer and sale of the securities shall be irrevocable when the transfer from the TREASURY DIRECT account of the investor to the account at the Federal Reserve Bank is effected.

(10) *Liability.* The Department and the designated Federal Reserve Bank shall not be liable for changes in market conditions affecting the price received for the security, or for any loss which the investor may incur as a result of the transaction or the inability of the Federal Reserve Bank to complete the transaction.

(c) *Transfer upon death of an owner—*
(1) *Right of survivorship.* If a security is registered in beneficiary form or a form which provides for a right of sur-

vivorship, upon the death of an owner, the beneficiary or survivor shall be the sole and absolute owner, notwithstanding any purported testamentary disposition by the decedent and notwithstanding any State or other law to the contrary. The Department will honor a transaction request by a beneficiary or a survivor (in the case of a security registered in the form described in § 357.21(b)(2)(i)(B)) only upon proof of death of an owner.

(2) *Succession under law of domicile.* If a security is registered in a form that does not provide for a right of survivorship, succession shall be determined in accordance with the applicable law of the deceased owner's domicile at the time of death.

(d) *Representative succession.* If a security is registered in the name of a representative who has died, resigned, or been removed, succession shall be determined in accordance with applicable law and the terms of the document under which the representative was acting.

(e) *Organizational succession—*(1) *Corporation and unincorporated association.* If a security is registered in the name of a corporation or an unincorporated association that has been dissolved, merged or consolidated into another organization, succession shall be determined in accordance with applicable law and the terms of the documents by which the dissolution, merger, or consolidation was effected.

(2) *Partnership.* If a partnership is dissolved or terminated, succession shall be determined in accordance with applicable law and the terms of the partnership agreement.

(f) *Succession of governmental officer.* If a security is registered in the name and title of a governmental officer who has died, resigned, or has been removed, succession shall be determined in accordance with applicable law.

(Approved by the Office of Management and Budget under control number 1535–0068)

[51 FR 18265, May 16, 1986; 51 FR 18884, May 23, 1986, as amended at 53 FR 10074, Mar. 29, 1988; 62 FR 46861, Sept. 4, 1997; 64 FR 6527, Feb. 10, 1999]

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§ 357.23 Judicial proceedings—sovereign immunity.

(a) *Department and Federal Reserve Banks not proper parties.* The Department and the Federal Reserve Banks are not proper defendants in a judicial proceeding involving competing claims to a security held in TREASURY DIRECT nor are they subject to any injunction or restraining order issued with respect to a security. The Department will not recognize a notice of a pending or contemplated judicial or administrative proceeding affecting a security in TREASURY DIRECT.

(b) *Orders—(1) Ownership rights.* The Department will recognize a final order entered by a court that affects ownership rights in a security in TREASURY DIRECT if:

(i) The order is consistent with the provisions of this subpart and the terms and conditions of the security; and

(ii) The Department has received evidence of the order, as provided in paragraph (c) of this section.

(2) *Transaction request.* The Department will honor a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of the security or payment with respect thereto if:

(i) The ordered disposition of the security or payments with respect thereto is consistent with the provisions of this subpart and the terms and conditions of the security; and

(ii) The Department has received evidence of the appointment and order, as provided in paragraph (c) of this section.

(c) *Evidence required.* Before the Department will recognize an order or termination entered by a court, the Department must have received a certified copy of the judgment, decree, or order and any additional documents deemed necessary by the Department. A certificate from the clerk of the court, bearing the seal of the court, must also be submitted stating that the judgment, decree, or order is still in full force and has not been stayed or appealed, and that the time for filing an appeal has passed. Before the Department will honor a transaction request submitted by a person appointed

by a court, the Department must receive a certified copy of the order making the appointment and describing specifically the person's authority, and any additional documents deemed necessary by the Department.

(Approved by the Office of Management and Budget under control number 1535-0068)

§ 357.24 Availability and disclosure of TREASURY DIRECT records.

(a) *General.* All records with respect to a TREASURY DIRECT account are held confidential. Consistent with the Privacy Act (5 U.S.C. 552a), information relating to those accounts will be released only to the owner except:

(1) As provided in these regulations;

(2) As provided in Treasury regulations contained in 31 CFR Part 323; or

(3) As otherwise provided by law.

(b) *Inquiries by owners.* Information requested will be disclosed to an owner provided that:

(1) Sufficient information is provided to identify the owner; and

(2) Sufficient information is provided to identify the TREASURY DIRECT account.

(c) *Conditions for release.* A request for information will be honored only if, in the sole judgment of the Department or the Federal Reserve Bank to which the inquiry is made, the identity and right of the requester to the information have been established.

[51 FR 18265, May 16, 1986; 51 FR 18884, May 23, 1986]

§ 357.25 Security interests.

(a) *General.* The Department will not recognize any notice or claim of a lien, encumbrance, or security interest of any kind, including a pledge, in a security in TREASURY DIRECT except as provided in § 357.23 and in paragraph (b) of this section.

(b) *Security for the performance of duty or obligation under Federal law.* The Department will accept and hold pursuant to the provisions of 31 U.S.C. 9303, book-entry bonds, notes or bills submitted in lieu of a surety bond as security for the performance of a duty or obligation required by Federal law in accordance with said section.

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§ 357.26 Direct Deposit.

(a) *General.* A payment by the Department with respect to a security shall be by direct deposit unless it is deemed necessary by the Department to make payment by another means. Direct Deposit payments are governed by the regulations at 31 CFR part 370.

(b) *Names on account.* Where the TREASURY DIRECT securities account is in the name of individual(s) in their own right, and the deposit account at the financial institution is in the name of individual(s) in their own right, the two accounts must contain at least one name that is common to both.

(c) *Inquiry to financial institution.* Where the deposit account to which payments are to be directed is held in the name of the financial institution itself acting as sole trustee, or as co-trustee, or is in the name of a commercially-managed investment fund, particular inquiry should first be made of the financial institution to make certain that the direct deposit payments can be received, and alternate arrangements made if it cannot do so.

(d) *Payments to master account.* All payments relating to a single account master record must be made to the same designated account at a financial institution.

(e) *Deposit account.* The deposit account to which payments are directed should preferably be established in a form identical to the registration of the securities account, particularly where the securities are registered jointly or with right of survivorship, to assure that the rights of ownership and of survivorship can be more easily identified and preserved. Neither the United States nor any Federal Reserve Bank shall be liable for any loss sustained because the interests of the holder(s) of a deposit account to which payments are made are not the same as the interests of the owner(s) of the security.

(Approved by the Office of Management and Budget under control number 1535–0068)

[51 FR 18265, May 16, 1986, as amended at 57 FR 38774, Aug. 27, 1992; 61 FR 6113, Feb. 16, 1996; 64 FR 40487, July 26, 1999]

§ 357.27 Reinvestment.

(a) *General.* Upon the request of an owner, the redemption proceeds of a security may be reinvested at maturity in a new security in the same form of registration, provided a new security is then being offered by the Department and provision for reinvestment is made in the offering. The new security must be in an authorized denominational amount and will be issued in accordance with the terms of the offering. If the new security is issued at a premium or with accrued interest, an additional payment will be required from the investor. If the new security is issued at a discount, the difference will be remitted to the owner.

(b) *Treasury bills.* A request by an owner for a single or successive reinvestment of a Treasury bill must be made in accordance with the terms prescribed on the tender form submitted at the time of purchase of the original bill, or by a subsequent transaction request received not less than ten (10) business days prior to the maturity date of the bill. A request to revoke a direction to reinvest the proceeds of a bill must be received by the Department not less than ten (10) business days prior to the maturity date of the bill. If either a request for reinvestment or revocation of a reinvestment request is received less than ten (10) business days prior to maturity of the original bill, the Department may in its discretion act on such request if sufficient time remains for processing.

(c) *Issue date not coincidental with maturity date.* If the date on which a security matures or is called does not coincide with the issue date of the security being purchased through reinvestment, the Department may, at its option, hold the redemption proceeds in the same form of registration as the maturing or called security, but no interest shall accrue or be paid on such funds.

(Approved by the Office of Management and Budget under control number 1535–0068)

[51 FR 18265, May 16, 1986, as amended at 62 FR 18694, Apr. 16, 1997]

§ 357.28 Transaction requests.

(a) *General.* Unless otherwise authorized by the Department, a transaction

request must be submitted on a transaction request form. In the case of certain transactions specified by the Department, the owner's signature on the form must be certified or guaranteed, as provided in § 357.31. If the transaction request form is received more than six (6) months after its execution, it will not be honored by the Department and will be returned to the sender for further instructions.

(b) *Individuals*—(1) *General*. A transaction request must be signed by the owner of the security. In addition to any required certification, a transaction request form executed by a person by mark, *e.g.*, "(X)", must be witnessed by a disinterested person. The following language should be added to the form and be signed by the witness:

Witness to signature by mark

Signature of witness

Address of witness

(2) *Change of name*. If an individual's name has been changed from that appearing in the registration, the individual should sign both names to the transaction request form and state the manner in which the change occurred.

Example: Deborah L. Gains, changed by order of court from Deborah G. O'Brien.

The individual must provide evidence, such as a certified copy of a court order, which confirms the change, unless it is indicated that the change of name resulted from marriage.

Example: Catherine M. Cole, changed by marriage from Catherine T. Murray.

(3) *Natural guardians*. A transaction request involving a security registered in the name of a natural guardian of a minor may be executed by the natural guardian. If a security is registered in the names of both parents as natural guardians of a minor, both must execute a transaction request. However, the Department will not honor a transaction request by the natural guardian(s):

(i) Which would transfer the security to a natural guardian in his or her own right; or

(ii) After the Department receives notice of the minor's attainment of majority, the qualification of a legal

guardian or similar representative, or the death of the minor.

(4) *Voluntary guardians*. A transaction request involving a security belonging to an owner who has become incompetent may be executed by a voluntary guardian, but only after approval by the Department of the voluntary guardian's application for such designation. However, the Department will not honor a transaction request by the voluntary guardian:

(i) Which would transfer the security to a voluntary guardian in his or her own right; or

(ii) After the Department receives notice of the ward's restoration to competency, the qualification of a legal guardian or similar representative, or the death of the ward. See § 357.21(b)(4).

(c) *Representatives*—(1) *General*. A representative of an owner's estate, other than a trustee, may execute a transaction request form if the representative submits to the Department properly authenticated evidence of the authority to act. The evidence will not be accepted if dated more than six (6) months prior to the date of execution of the transaction request.

(2) *Estates closed*. If a security is registered in the name of an owner who is deceased and whose estate has been closed and the representative discharged, a transaction request must be made by the person(s) entitled to the security, as determined from the pertinent court records or the deceased owner's will, if any.

(3) *Estates not administered*—(i) *Special provisions under State laws*. If, under applicable State law, a person is entitled to or has been recognized or appointed to administer the estate of a deceased owner without court-supervised administration, that person may execute a transaction request involving a security belonging to the deceased owner, provided appropriate evidence of authority is submitted to the Department.

(ii) *Agreement of persons entitled*. If a representative of a deceased owner's estate has not been or is not to be appointed, the Department will honor an application for disposition of any securities belonging to the deceased owner

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pursuant to a written agreement provided that the Department is satisfied that:

(A) All persons entitled to share in the decedent's personal estate are parties to the agreement;

(B) Provision has been made for payment of all the decedent's debts; and

(C) The interests of any minors or incompetents have been protected.

(d) *Private organizations*—(1) *Corporations and unincorporated associations*. A transaction request involving a security registered in the name of a corporation or an unincorporated association (either in its own right or in a representative capacity), may be executed by an authorized person on its behalf. The request must be supported by evidence of the person's authority to act.

(2) *Partnerships*. A transaction request involving a security registered in the name of a partnership must be executed by a general partner.

(e) *Government entities*. A transaction request involving a security registered in the name of a State, county, city, school district, or other governmental entity, public body or corporation, must be executed by a authorized officer of the entity. The request must be supported by evidence of the officer's authority to act.

(f) *Public officers*. A transaction request involving a security registered in the title of a public officer must be executed by the officer. The request must be supported by evidence of incumbency.

(g) *Attorneys-in-fact*. A transaction request made by an attorney-in-fact must be accompanied by the original power of attorney or a properly authenticated copy. A power of attorney must be executed in the presence of a notary public or a certifying individual. See § 357.31. The power of attorney will not be accepted if it was executed more than two (2) years before the date the transaction request was executed, unless the power provides that the authority of the attorney-in-fact continues notwithstanding the incapacity of the principal. If two or more attorneys-in-fact are named, all must execute the transaction request unless the power authorizes fewer than all to act. A transaction request executed by an attorney-in-fact seeking

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transfer of a security to the attorney-in-fact will not be accepted unless expressly authorized by the document appointing the attorney-in-fact.

(Approved by the Office of Management and Budget under control number 1535–0068)

[51 FR 18265, May 16, 1986; 51 FR 18884, May 23, 1986]

§ 357.29 Time required for processing transaction request.

For purposes of a transaction request affecting payment instructions with respect to a security, a proper request must be received not less than ten (10) business days preceding the next payment date. If a transaction request is received less than ten (10) business days preceding a payment date, the Department may in its discretion act on such request if sufficient time remains for processing. If a transaction request is received too late for completion of the requested transaction, the transaction request will be acted upon with respect to future payments only.

(Approved by the Office of Management and Budget under control number 1535–0068)

[51 FR 18265, May 16, 1986, as amended at 62 FR 18694, Apr. 16, 1997]

§ 357.30 Cases of delay or suspension of payment.

If evidence required by the Department in support of a transaction request is not received by the Department at least ten (10) business days before the maturity date of the security, or if payment at maturity has been suspended pursuant to 31 CFR 370.10, in cases of reinvestment, the Department will redeem the security and hold the redemption proceeds in the same form of registration as the security redeemed, pending further disposition. No other interest shall accrue or be paid on such proceeds after the security is redeemed.

[64 FR 40487, July 26, 1999]

§ 357.31 Certifying individuals.

(a) *General*. The following individuals may certify signatures on transaction request forms:

(1) Officers and employees of depository institutions, corporate central credit unions, and institutions that are

members of Treasury-recognized signature guarantee programs who have been authorized:

- (i) Generally to bind their respective institutions by their acts;
- (ii) Unqualifiedly to guarantee signatures to assignments of securities; or
- (iii) To certify assignments of securities.

(2) Officers and authorized employees of Federal Reserve Banks.

(3) Officers of Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives, the Central Bank for Cooperatives, and Federal Home Loan Banks.

(4) Commissioned officers and warrant officers of the Armed Forces of the United States but only with respect to signatures executed by Armed Forces personnel, civilian field employees, and members of their families.

(5) Such other persons as the Commissioner of the Public Debt or his designee may authorize.

(b) *Foreign countries.* The following individuals are authorized to certify signatures on transaction request forms executed in a foreign country:

(1) United States diplomatic or consular officials.

(2) Managers and officers of foreign branches of depository institutions and institutions that are members of Treasury-recognized signature guarantee programs.

(3) Notaries public and other officers authorized to administer oaths, provided their official position and authority are certified by a United States diplomatic or consular official under seal of the office.

(c) *Duties and liabilities of certifying individuals—* (1) *General.* Except as specified in paragraph (c)(2) of this section, a certifying individual shall require that the transaction request form be signed in the certifying individual's presence after he or she has established the identity of the person seeking the certification. An employee who is not an officer should insert the words "Authorized signature" in the space provided for the title. A certifying individual and the organization for which he or she is acting are jointly and severally liable for any loss the United States may incur as a result of the in-

dividual's negligence in making the certification.

(2) *Signature guaranteed.* The transaction request form need not be executed in the presence of a certifying individual if he or she unqualifiedly guarantees the signature, in which case the certifying individual shall, after the signature, add the following endorsement: "Signature guaranteed, First National Bank of Smithville, Smithville, NH, by A.B. Doe, President", and add the date. In guaranteeing a signature, the certifying individual and the organization for which he or she is acting warrant to the Department that the signature is genuine and that the signer had the legal capacity to execute the transaction request.

(3) *Absence of signature guaranteed by depository institution.* A transaction request form need not be actually signed by the owner in any case where a certifying individual associated with a depository institution has placed an endorsement on the form reading substantially as follows: "Absence of signature by owner and validity of transaction guaranteed, Second State Bank of Jonesville, Jonesville, NC, by B.R. Butler, Vice President". The endorsement should be dated, and the seal of the institution should be added. This form of endorsement is an unconditional guarantee to the Department that the institution is acting for the owner under proper authorization.

(d) *Evidence of certifying individual's authority.* The authority of a certifying individual to act is evidenced by affixing to the certification the following:

(1) *Officers and employees of depository institutions.* The institution's seal or signature guarantee stamp; if the institution is an authorized paying agent for U.S. Savings Bonds, a legible imprint of the paying agent's stamp; or, if the institution is a member of the Security Transfer Agents Medallion Program (STAMP), a legible imprint of the STAMP signature guarantee stamp.

(2) *Officers and authorized employees of institutions that are members of Treasury-recognized signature guarantee programs.* A legible imprint of the program's signature guarantee stamp, e.g., the

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STAMP, SEMP, MSP stamp for members of the Securities Transfer Agents Medallion Program, the Stock Exchanges Medallion Program, or the New York Stock Exchange Incorporated Medallion Signature Program, respectively.

(3) *Officers and authorized employees of Federal Reserve Banks.* Whatever is prescribed in procedures established by the Department.

(4) *Officers and employees of corporate central credit unions and other entities listed in paragraph (a)(3) of this section.* The entity's seal.

(5) *Notaries public, diplomatic or consular officials.* The official seal or stamp of the office. If the certifying individual has no seal or stamp, then the official's position must be certified by some other authorized individual, under seal or stamp, or otherwise proved to the satisfaction of the Department.

(6) *Commissioned or warrant officers of the United States Armed Forces.* A statement which sets out the officer's rank and the fact that the person executing the transaction request is one whose signature the officer is authorized to certify under the regulations in this part.

(7) *Such other persons as the Commissioner of the Public Debt or his designee may authorize.* The evidence specified by the Commissioner or his designee.

(e) *Interested persons not to act as certifying individual.* Neither the transferor, the transferee, nor any person having an interest in a security involved in the transaction may act as a certifying individual. However, an authorized officer or employee of a depository institution or of an institution that is a member of a Treasury-recognized signature guarantee program may act as a certifying individual on a transaction request for transfer of a security to the institution, or any request executed by another individual on behalf of the institution.

[59 FR 59038, Nov. 15, 1994]

§ 357.32 Submission of transaction requests; further information.

Transaction requests and requests for forms and information may be submitted to any Federal Reserve Bank or to the Bureau of the Public Debt,

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TREASURY DIRECT, Washington, DC 20239-0001. A list of the addresses of Federal Reserve Banks will be available upon request to the Bureau. The Federal Reserve Banks, as fiscal agents of the United States, are authorized to perform such functions as may be delegated to them by the Department in order to carry out the provisions of this part.

Subpart D—Additional Provisions

§ 357.40 Additional requirements.

In any case or any class of cases arising under these regulations, the Secretary of the Treasury ("Secretary") may require such additional evidence and a bond of indemnity, with or without surety, as may in the judgment of the Secretary be necessary for the protection of the interests of the United States.

§ 357.41 Waiver of regulations.

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of these regulations in any case or class of cases for the convenience of the United States or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not adversely affect any substantial existing rights, and the Secretary is satisfied that such action will not subject the United States to any substantial expense or liability.

[61 FR 43630, Aug. 23, 1996]

§ 357.42 Liability of Department and Federal Reserve Banks.

The Department and the Federal Reserve Banks may rely on the information provided in a tender, transaction request form, or Transfer Message, and are not required to verify the information. The Department and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information set out in a tender, transaction request form, or Transfer Message, or evidence submitted in support thereof.

[61 FR 43630, Aug. 23, 1996]

§ 357.43 Liability for transfers to and from TREASURY DIRECT.

A depository institution or other entity that transfers to, or receives, a security from TREASURY DIRECT is deemed to be acting as agent for its customer and agrees thereby to indemnify the United States and the Federal Reserve Banks for any claim, liability, or loss resulting from the transaction.

§ 357.44 [Reserved]**§ 357.45 Supplements, amendments, or revisions.**

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulations with respect to securities, including charges and fees for the maintenance and servicing of securities in book-entry form.

APPENDIX A TO PART 357—DISCUSSION
OF FINAL RULE

BACKGROUND

Twenty-four written comments were received to the notice of proposed rulemaking from various sources, including Federal agencies, trade associations, as well as financial and commercial investment institutions. With the exception of one bank, all commentators endorsed the concept of a certificateless security.

The grouping and identification of the comments received have been made on a section-by-section basis, with an explanation of the action taken with respect thereto. As circumstances necessitated the publication of the rule in two segments, in order to make each part more understandable, certain definitions, such as those for "Department" and "securities", have appeared in the proposed rule for both TREASURY DIRECT and TRADES, and were slightly modified in the proposed rules on TRADES. Because these modifications represent non-substantive clarifications, and to avoid confusion as between the two portions of the rules, the definitions as used in TRADES have been adopted.

SECTION-BY-SECTION ANALYSIS

Section 357.21 Registration.

The forms of registrations provided for securities to be held in TREASURY DIRECT have different legal effect from those currently provided for in the case of definitive Treasury securities and for the Treasury's book-entry Treasury bill system. A comment was received that, as a result, this could lead to some confusion, and that the Treasury bill forms of recordation currently offered

should be changed, particularly since Treasury bills will be phased into TREASURY DIRECT gradually. The Bureau believes that the benefits of uniformity of rights and interests that TREASURY DIRECT investors will derive far outweigh any possible confusion. As for confusion with the current Treasury bill book-entry system, given the fact that Treasury bills have a term of not more than a year, it is believed that the problem, if any, will be short-lived.

Given the importance of the change that TREASURY DIRECT provides as to registration, the discussion thereof that accompanied the Notice of Proposed Rulemaking is re-published below.

"Forms of Registration. The proposed rule provides the investor with a variety of registration options. They are essentially similar to those provided for registered, definitive marketable Treasury securities. Investors should be particularly aware that, where the security is held in the names of two individuals, the registration chosen may establish rights of survivorship.

"The reason for establishing the rights of ownership for securities held in TREASURY DIRECT is that it will give investors the assurance that the forms of registration they select will establish conclusively the rights to their book-entry securities. It will also serve to eliminate some of the uncertainties, as well as possible conflicts, between the varying laws of the several States.

"A Federal rule of ownership is being adopted by the Treasury for TREASURY DIRECT securities. This regulatory approach is consistent with the one previously taken in the case of United States Savings Bonds. It will have the effect of overriding inconsistent State laws. See, *Free v. Bland*, 369 U.S. 663 (1962).

"In the case of individuals (who are likely to be by far the majority of holders of securities in TREASURY DIRECT), the options offered will permit virtually all the preferred forms of ownership. At the investor's option, it will be possible to provide for the disposition of the securities upon death through rights of survivorship.

"Coownership registration. One option is the coownership form of registration, i.e., "A or B." Unlike the current Treasury bill book-entry system being administered by the Bureau of the Public Debt, a security held in TREASURY DIRECT registered in this form will be transferable upon the written request of *either* coowner. Other changes in the account may also be made upon the request of *either* party. While this form of registration will facilitate the receipt of payments and provide ease in conducting transactions, care should obviously be exercised in designating a coowner.

"Joint ownership. For those who would prefer to have the transferability of a security

held in two names contingent upon the request of both, the joint form of registration will be appropriate. This form of registration, i.e., "A and B, with [without] the right of survivorship," will require the agreement of both parties to conduct any authorized transaction.

"Beneficiary form. The beneficiary form, i.e., "A payable on death to (POD) B," will permit the owner to have sole control of the account during his/her lifetime, but in the event of death, the account will pass by right of survivorship to the beneficiary."

One commentator questioned the "natural guardian" and "voluntary guardian" forms of registration provided in the regulations, pointing out that financial institutions are reluctant to establish an account in the name of a natural guardian of a minor because of the uncertainties as to who might be entitled to the funds on the death of the natural guardian or minor, or when the minor reached majority. It was mentioned that a bank would be reluctant to open an account in the name of a voluntary guardian, or to release funds from an existing account to a voluntary guardian because of the potential risk in the event of a claim from a court-appointed guardian. It seems apparent that the comment was prompted by the provision that appeared in the proposed rule that the account held in TREASURY DIRECT and the deposit account to which payments are to be directed should be in the same form. As hereafter pointed out in the discussion under the payment section, this is not a requirement.

While parents are universally recognized as the natural guardians of the person of minors, they have generally not been recognized as entitled to control the estates of these minors, except perhaps in the case of small amounts. Traditionally, the guardian of the estate of a minor involves judicial appointment and supervision. In order to provide a means of dealing with the problem of disposing of securities inadvertently registered in the name of minors without requiring the appointment of a legal guardian and to provide a means for investing funds of a minor, which did not technically qualify for investment under the Uniform Gifts to Minors Act, the Department decided to provide recognition for natural guardians.

The voluntary guardianship procedure is wholly a creature of the Department's regulations. It was established in recognition of the burden placed on an incompetent's estate and his/her family by requiring the appointment of a legal guardian to receive the interest on, or to redeem securities for, the account of an individual who has become incompetent, at least where the incompetent's estate is relatively modest. This form of registration is not available on original issue and is limited to an aggregate of \$20,000 (par amount) of TREASURY DIRECT securities.

The \$20,000 limit in connection with the use of the voluntary guardianship procedure is in keeping with the limits used in connection with the summary administration of decedents' estates under the laws of many States.

Section 357.23 Judicial proceedings.

No comments were received regarding the provisions on judicial proceedings. Given their importance, the discussion that accompanied the publication thereof in proposed form is included here.

Judicial proceedings. Under the principle of sovereign immunity, neither the Department nor a Federal Reserve Bank, acting as fiscal agent of the United States, will recognize a court order that attempts to restrain or enjoin the Department or a Federal Reserve Bank from making payment on a security or from disposing of a security in accordance with instructions of the owner as shown on the Department's records.

"The Department will recognize a final court order affecting ownership rights in TREASURY DIRECT securities provided that the order is consistent with the provisions of subpart C and the terms and conditions of the security, and the appropriate evidence, as described in §357.23(c), is supplied to the Department. For example, the Department may recognize final orders arising from divorce or dissolution of marriage, creditor or probate proceedings, or cases involving application of a State slayer's act. The Department will also recognize a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of the security or payment with respect thereto, provided conditions similar to those above are met."

Section 357.25 Security interests.

TREASURY DIRECT is not designed to reflect or handle the various types of security interests that may arise in connection with a Treasury bond, note or bill. However, the Treasury has from time to time and to a limited extent held in safekeeping, for such agencies as the Customs Service and Immigration and Naturalization Service, Treasury securities submitted in lieu of surety bonds in accordance with 31 U.S.C. 9303. While the Federal Reserve Banks handle the majority of such pledges and will continue to do so, as this statute requires the Treasury to accept these Government obligations so pledged, a provision has been added for accepting and holding book-entry securities submitted for such purposes.

Section 357.26 Payments.

(a) *General.* Most comments focused on the provisions on payments. A key feature of TREASURY DIRECT will be the making of

payments by the direct deposit method (also known as the electronic funds transfer or ACH method). Checks will be issued only under extraordinary circumstances. A number of comments endorsed the concept of payment by direct deposit as an improvement given the difficulties associated with checks.

One comment expressed concern as to who would have the burden of resolving errors in cases where a receiving financial institution fails to properly credit a payment. The Department has concluded that while the direct deposit payment method is not without risks, it is far superior to the use of checks, in terms of the risks, potential losses, and costs. In a case where a receiving institution fails to act in accordance with the instructions given it, the Bureau intends to use its best efforts to assist investors in rectifying the error.

(b) *Direct deposit.* A number of comments expressed the view that the TREASURY DIRECT payment system should adopt either the rules governing the direct deposit of Government payments (31 CFR part 210), or the rules of the National Automated Clearing House Association ("NACHA Rules"), but not separate rules. The final rules have adopted some of the existing practices applicable to commercial ACH payments, but it is not possible for the Department of the Treasury to conform to all of these rules. For example, the Treasury has no authority to indemnify recipients of direct deposit payments, although such indemnification by a sender is contemplated in the NACHA rules and was advocated in several comments. It should also be noted that the rules applicable to TREASURY DIRECT payments are modeled, to some extent, on the rules for Government direct deposit payments in order to take advantage of the large number of entities that are a part of the Government direct deposit network. See the discussion under paragraph (b)(2). Where there are unique rules applicable to TREASURY DIRECT, however, they are explained here.

Given the variance between the procedures set out in the proposed rules and existing practice, and the increased burdens resulting therefrom, several clearing house associations and financial institutions requested that the implementation of TREASURY DIRECT be delayed from July 1986 to July 1987. The Treasury is satisfied that the added burdens that would have been imposed on financial institutions to receive TREASURY DIRECT payments under the proposed rules have been effectively eliminated in the final rule. Thus, Treasury plans to implement the system on or about the original target date. The final rules are being published, however, in advance of actual implementation so as to give financial institutions an opportunity to make whatever remaining, minor procedural changes as may be necessary.

(b)(1) *Information on deposit account at financial institution.* The proposed regulations provided that the owner of a security in TREASURY DIRECT, or in the case of ownership by two individuals, the first-named owner, must be an owner of, and so designated, on the account at the receiving financial institution. The regulations also provided that in any case in which a security is held jointly or with right of survivorship, the account at the financial institution should be established in a form that assures that the rights of each joint owner or survivor will be preserved.

The rule requiring the naming of the first-named owner on the receiving financial institution account was based on tax reporting considerations. It has now been determined that the first-named security owner need not be named on the receiving deposit account.

The rule relating to establishment of the receiving account in joint ownership cases in the same form as the registration of the security was intended to be a notice to investors of a potential problem, rather than a requirement. In cases where an investor intends a beneficiary, joint owner or coowner to receive securities after the investor's death, this intention may be defeated if the recipient is not also named on the receiving deposit account. It is up to the investor to examine his or her particular circumstances and determine whether the form in which the deposit account will be held is satisfactory. This matter has been clarified in paragraph (b)(1)(v) of the final rule. Except for the restriction described in paragraph (b)(1)(ii) (see below), the Treasury does not intend to establish any limitations on how the receiving deposit account is held.

Several comments addressed the issue of the registration of the security versus the title of the deposit account. Two comments pointed out that if the deposit account must be in the same form as the registration of the security, then existing traditional forms of ownership for bank accounts, which do not include all the forms of registration for securities held in TREASURY DIRECT, would not suffice. Concerns were also expressed that with multiple forms of ownership, financial institutions could become involved in disputes with investors. As noted above, there is no requirement that the TREASURY DIRECT account and the deposit account be identical. The responsibility to choose the title of the deposit account rests with the investor.

Another comment objected to the rule that the first-named security owner be named on the receiving deposit account because the rule would eliminate the possibility of payment to an account at a financial institution in the name of a mutual fund, security dealer, or insurance company. Although the change in the tax reporting rule described above permits payment to such accounts, as

well as to trust accounts, since it appears that there is a question as to the capability of some receiving institutions to handle such payments, investors are strongly urged to consult their financial institution before requesting such payment arrangements. See paragraph (b)(1)(iii).

It should be emphasized that any payments that must be made by check will be made in the form in which the TREASURY DIRECT account is held, which may be different than the form of the deposit account. Investors should be aware that this may result in checks being issued, and thus payment being made, in a form different than they intended the direct deposit payments to be made. For example, if Investor A purchases a security in his or her name alone with instructions that payments be directed to a financial institution for the account of a money market fund, any checks that must be issued will be drawn in the name of Investor A. This could happen if Investor A furnishes erroneous payment instructions and the problem cannot be resolved before a payment date, in which case a check would be issued.

The one restriction on the form of the deposit account that appears in paragraph (b)(1)(ii) of the final regulations is a rule that where the TREASURY DIRECT account is in the name of individual(s), and the receiving deposit account is also in the name of individual(s), one of the individuals on the TREASURY DIRECT account must be named on the deposit account. This rule is intended to provide a means to determine the disposition of the payment, if necessary. The Treasury does not expect financial institutions to monitor this rule.

Provision has been made in paragraph (b)(1)(vii) to permit financial institutions to request "mass changes" of deposit account numbers without the submission of individual requests from investors to TREASURY DIRECT. This procedure is intended for use where an institution changes all or an entire group of its account numbers, typically as a result of an organizational change. TREASURY DIRECT will honor requests from a financial institution to change deposit account numbers under such circumstances, with the understanding that the institution agrees to indemnify the Treasury and the security owners for any losses resulting from errors made by the institution. If the institutions does not wish to use the "mass change" procedure, then the change in account number must be requested by the investor, using the authorized transaction request form. See §357.28.

Some institutions voiced concern in general about investor errors in furnishing the TREASURY DIRECT a deposit account number and the financial institution's routing number. Although the Treasury plans to provide as much assistance to investors as possible, the investor must bear the responsibility

for securing accurate payment information. Investors are urged to consult with their receiving institution to verify the accuracy of the payment information, since neither the Treasury nor the receiving financial institution would be responsible for payment errors resulting from erroneous information provided by investors.

The proposed rule provided in §357.26(b)(1)(iii) that the designation of a financial institution by a security owner to receive payments from TREASURY DIRECT would constitute the appointment of the financial institution as agent for the owner for the receipt of payments. The crediting of a payment to the financial institution for deposit to the owner's account, in accordance with the owner's instructions, would discharge the United States of any further responsibility for the payment. One comment noted that, in contrast, the rule in 31 CFR 210.13 for Federal recurring payments is that the United States is not acquitted until the payment is credited to the account of the recipient on the books of a financial institution.

Although, in principle, the same rules should apply to all Government payments, the proposed TREASURY DIRECT rule has been retained in the final regulations on the basis of the major differences in the procedures to be used in TREASURY DIRECT. Most significantly, the Treasury will not be securing any written verification (*i.e.*, an enrollment form) from a financial institution as to the accuracy of the deposit account number and other payment information, as is now the practice in the case of payments under 31 CFR part 210. Under these circumstances, the Treasury cannot, in effect, guarantee that a payment will be credited by a financial institution to the correct account. It should also be noted that this rule on acquittance of the United States is consistent with the provision in §357.10(c) of the proposed regulations on TRADES. In practice, however, the Treasury plans to participate actively in seeking to locate and recover any payments that have been misdirected.

(b)(2) *Agreement of financial institution.* The proposed rule provided, in §357.26(b)(2), that a financial institution which has agreed to accept payments under 31 CFR part 210 shall be deemed to have agreed to accept payments from TREASURY DIRECT. The rule further provided that an institution could not be designated to receive TREASURY DIRECT payments unless it had agreed to accept direct deposit payments under 31 CFR part 210.

One financial institution commented that a receiving institution that has already agreed to accept part 210 payments should have the choice as to whether to accept payments from TREASURY DIRECT. The basis for this comment was the perception that

the receipt of TREASURY DIRECT payments would require the implementation of special procedures by the financial institution and expose it to additional risks. As explained earlier, the Treasury has significantly modified the procedures and reduced the requirements imposed upon a financial institution in order to receive TREASURY DIRECT payments, and decreased as well the risks an institution will incur in the receipt of such payments. Thus, the proposed rule on eligibility of receiving institutions has been retained in the final rule in essentially the same form.

Two other comments were made to the effect that the category of institutions receiving payments should be broadened. In deciding to authorize payments to all institutions receiving part 210 payments, the Treasury considered the fact that many more institutions are designated endpoints for Government (direct deposit) payments than for commercial ACH payments. In order to afford investors the widest choice of recipient institutions, all institutions that had agreed to accept part 210 payments were designated as authorized recipients. Treasury has now broadened the rule further to also authorize those financial institutions that are willing to agree to accept part 210 payments in the future. This rule will permit investors to designate institutions that are not now receiving Government direct deposit payments as the recipients of their TREASURY DIRECT payments if the institutions make appropriate arrangements with the Federal Reserve Bank of their District.

(b)(3) *Pre-notification.* A significant feature of the TREASURY DIRECT payment procedure will be the use of a pre-notification message sent to the receiving financial institution in advance of the first payment. This procedure, already in use for commercial ACH payments, alerts the institution that a payment will be made and provides an opportunity for verification of the accuracy of the account information.

The proposed regulations provided that the financial institution would be required to reject the pre-notification message within four calendar days after the date of receipt if the information contained in the message did not agree with the records of the institution or if for any other reason the institution would not be able to credit the payment. The rules also stated that a failure to reject the message within the specified time period would be deemed an acceptance of the pre-notification and a warranty that the information in the message was accurate.

Because there was some confusion over when the pre-notification message would be sent, the final rules clarify, in paragraph (b)(3)(i), that in most cases, this will occur shortly after establishment of a TREASURY DIRECT account. The Treasury has under consideration a system change that would

permit a second pre-notification to be sent closer to the time of the payment if the first payment is to occur a substantial length of time after account establishment.

One of the items of information contained in a pre-notification message is the name the investor has indicated appears on the deposit account. Comments were received that existing procedures and software do not permit automatic verification of the account name. Although there is apparently some variation in practice, and some institutions undertake to verify the account name information manually, the Treasury has decided to drop the account name verification requirement in the final rules. This means that under paragraph (b)(3)(ii), a financial institution need only verify the account number and type designations on the pre-notification message. However, the Treasury urges institutions which are able to verify account names to do so and encourages the development of software that would have this capability.

A number of comments urged that the four-day period provided for an institution to reject a pre-notification message be lengthened. After consideration of the various alternatives proposed, the Treasury has concluded that an eight-day period will meet the needs of most institutions. See paragraph (b)(3)(ii) of the final rule. In responding to a pre-notification message, an institution may use the NACHA's "notification of change" procedure, standardized automated rejection codes, or any other similar standard procedure. Upon receipt of such notification, the Treasury will either make the necessary changes in the TREASURY DIRECT account or contact the investor, depending on the circumstances.

One commentator objected to the warranty by the receiving institution as to the accuracy of the pre-notification information, particularly in view of the manual verification or changes in procedures that would be required, and the resulting possibility of error. As previously noted, the requirement to verify an account name has been eliminated. In addition, language has been added to make it clear that the verification is limited to the time of pre-notification. The Treasury is of the view that the warranty is a useful concept in encouraging institutions to respond to pre-notification messages and will benefit all concerned by increasing the likelihood that payments will be made accurately and to the appropriate party.

(b)(5) *Responsibility of financial institution.* The proposed regulations provided, in §357.26(b)(5)(ii), that a financial institution that receives a TREASURY DIRECT payment on behalf of a customer would be required to promptly notify the Treasury when it has made a change in the status or ownership of the customer's deposit account, such as the deletion of the first-named owner of

the security from the title of the account, or when the institution is on notice of the death or incompetency of the owner of the deposit account.

Several financial institutions objected to this requirement on the grounds that it would be burdensome and would require the development of new procedures to monitor the changes in deposit accounts. Specifically, several institutions indicated they would be unable to relate the receipt of TREASURY DIRECT payments, which would be handled in a centralized area of the institution, to the changes being made in a deposit account, which are handled in another operational area of the institution. These institutions said they would not necessarily be aware of who is the first-named owner of the security in TREASURY DIRECT, and that more responsibility should be placed on the security owner in reporting changes.

In response to these comments, the Treasury has narrowed the notification rule, in paragraph (b)(5)(ii) of the final rule, to require a financial institution to notify TREASURY DIRECT only in cases where it is on notice of the death or legal incapacity of an individual named on the deposit account, or where it is on notice of the dissolution of a corporation named in the deposit account. Upon receipt of notice by the area of the institution that receives credit payments, the institution will be required to return any TREASURY DIRECT payments received thereafter.

(b)(6) *Payments in error/duplicate payments.* The proposed regulations, in §357.26(b)(6), set out rules describing the procedure that would be followed in cases where the Treasury or a Federal Reserve Bank has made a duplicate payment or a payment in error. First, the financial institution to which the payment was directed would be provided with a notice asking for the return of the amount of the payment remaining in the deposit account. If the financial institution were unable to return any part of the payment, it would be required to notify the Treasury or its Federal Reserve Bank, and provide the names and addresses of the persons who withdrew funds from the deposit account after the date of the duplicate payment or the payment in error. If the financial institution did not respond to the notice within 30 days, the financial institution's account at its Federal Reserve Bank could be debited in the amount of the duplicate or improper payment.

Several institutions raised objections about various aspects of the above procedures. One stated that 30 days was an insufficient time to respond and urged conformity with the rules in 31 CFR part 210 permitting a 60-day response time. Some objected to furnishing information about the persons who withdrew money from an account. Several objected in principle to the provision author-

izing the debiting of their accounts. Several comments indicated that if a payment is returned by a financial institution using an automated payment reversal procedure, then only the full amount of the payment (not a partial amount) can be reversed.

In the final rule, the Treasury has clarified the procedures. The requirement to provide the names of persons who withdrew funds from an account has been changed. In paragraph (b)(6)(i), financial institutions are asked to provide only such information as they have about the matter. The debiting of an institution's account at a Federal Reserve Bank is intended to be simply a last resort if the institution fails totally to respond to the notice of a duplicate payment or payment made in error. See paragraph (b)(6)(iii). The time provided for response to this notice has been lengthened to 60 days.

The final rule has also been clarified in paragraph (b)(6)(i) to provide that the amount that should be returned is an amount equal to the payment. The Treasury reserves the right, however, to request the return by other than automated means of a partial amount of a payment made in error. It is anticipated that such a procedure would occur only if the notice of a payment made in error is not issued immediately after the payment was made.

(d) *Handling of payments by Federal Reserve Banks.* Some of the comments raised a question about the liability of the Federal Reserve Banks in making payments. The proposed rule, in §357.26(d)(2), provided that each Federal Reserve Bank would be responsible only to the Department and would not be liable to any other party for any loss resulting from its handling of payments. This rule was taken from the existing regulations in 31 CFR part 210 (see §210.3(f)), and is simply a restatement of existing law.

In making payments, the Federal Reserve Banks are acting in the capacity as fiscal agents of the United States, pursuant to 12 U.S.C. 391. They are not acting in an individual (banking) capacity. If a Federal Reserve Bank misdirects a payment contrary to instructions provided by the investor, the United States, as principal, may remain liable to the investor for the payment. The United States could seek to recover any loss from its agent, the Federal Reserve Bank. However, because the proposed rule simply stated a legal conclusion and tended to create the impression that the rule was broader than intended, it has been omitted from the final regulations.

Section 357.31 Certifying individuals.

For clarity, the warranties which accompany the use of a "Signature guaranteed" stamp have been set out.

Section 357.42 Preservation of existing rights.

This section has been deleted. The same subject-matter will be covered in §357.1, as finally adopted.

Section 357.43 Liability of Department and Federal Reserve Banks.

This section was published as §357.42 in the notice of proposed rulemaking for TRADES. The final version will be published after all the comments on the rulemaking for TRADES have been reviewed and considered.

Section 357.46 Supplements, amendments, or revisions.

Provision for “charges and fees for services and maintenance of book-entry Treasury securities” has been added in the event circumstances should dictate their imposition.

[51 FR 18260, May 16, 1986; 51 FR 18884, May 23, 1986]

APPENDIX B TO PART 357—TRADES
COMMENTARY

INTRODUCTION

The adoption of regulations for the Treasury/Reserve Automated Debt Entry System (“TRADES”) is the culmination of a multi-year Treasury process of moving from issuing securities only in definitive (physical/certificated/paper) form to issuing securities exclusively in book-entry form. The TRADES regulations provide the legal framework for all commercially-maintained Treasury book-entry securities. For a more detailed explanation of the procedural and legal development of book-entry and the TRADES regulations, see the preamble to the rule proposed March 4, 1996 (61 FR 8420), as well as the earlier proposals cited therein 51 FR 8846 (March 14, 1986); 51 FR 43027 (November 28, 1986); 57 FR 12244 (April 9, 1992).

COMPARISON OF TRADES AND TREASURY
DIRECT

A person may hold interests in Treasury book-entry securities either in TRADES¹ or TREASURY DIRECT. The following summarizes the major differences between the two systems.

¹In TRADES a Person's interest in a Treasury book-entry security is a Security Entitlement, as described in TRADES. A Participant's interest in a marketable Treasury book-entry security also is a Security Entitlement. A Participant's Security Entitlement is different than a Security Entitlement as described in Revised Article 8, with respect to the Participant's rights against the issuer. A non-Participant's Security Entitlement is described in Revised Article 8.

Persons holding Treasury book-entry securities in TRADES hold their interests in such securities in a tiered system of ownership accounts. In TRADES, Treasury, through its fiscal agents, the Federal Reserve Banks, recognizes the identity only of Participants (persons with a direct account relationship with a Federal Reserve Bank). While Participants may be beneficial owners of interests in Treasury book-entry securities, there are many beneficial owners of such interests that are not Participants. Such beneficial owners hold their interests through one or more Securities Intermediaries such as banks, brokerage firms or securities clearing organizations.

In TRADES, the rights of non-Participant beneficial owners may be exercised only through their Securities Intermediaries. Neither Treasury nor the Federal Reserve Banks have any obligation to a non-Participant beneficial owner of an interest in a Treasury book-entry security. Two examples illustrate this principle. First, except where a pledge has been recorded directly on the books of a Federal Reserve Bank pursuant to §357.12(c)(1), Federal Reserve Banks, as Treasury's fiscal agents, will act only on instructions of the Participant in whose Securities Account the Treasury book-entry security is maintained in recording transfers of an interest in a Treasury book-entry security. A beneficial owner of the interest that is a non-Participant has no ability to direct a transfer on the books of a Federal Reserve Bank. Second, Treasury discharges its payment obligation with respect to a Treasury book-entry security when payment is credited to a Participant's account or paid in accordance with the Participant's instructions. Neither Treasury nor a Federal Reserve Bank has any payment obligation to a non-Participant beneficial owner of an interest in a Treasury book-entry security. A non-Participant beneficial owner receives its payment when its Securities Intermediary credits the owner's account.

Persons holding Treasury book-entry securities in TREASURY DIRECT, on the other hand, hold their securities accounts on records maintained by Treasury through its fiscal agents, the Federal Reserve Banks. The primary characteristic of TREASURY DIRECT is a direct account relationship between the beneficial owner of a Treasury book-entry security and Treasury. In TREASURY DIRECT, Treasury discharges its payment obligation when payment is credited to the depository institution specified by the beneficial owner of the Treasury book-entry security, paid directly to the beneficial owner by check, or paid in accordance with the beneficial owner's instructions. Unlike TRADES, TREASURY DIRECT does not provide a mechanism for the exchange of cash to settle a secondary market transaction, nor are pledges of Treasury

book-entry securities held in TREASURY DIRECT generally recognized. Accordingly, TREASURY DIRECT is suited for persons who plan to hold their Treasury securities until maturity, and provides an alternative for investors who are concerned about holding securities through intermediaries and who do not wish to hold their interests in Treasury securities indirectly in TRADES.

SCOPE OF REGULATION

Just as the scope of Revised Article 8 is limited,² the scope of this regulation is limited. It is not a comprehensive codification of the law governing securities, transactions in securities or the law of contracts for the purchase or sale of securities. Similarly, it is not a codification of all laws that could affect a person's interest in a Treasury book-entry security. For example, state laws regarding divorce or intestate succession could well affect which persons have rights in the interest in a Treasury book-entry security. Moreover, the regulations deal with certain aspects of transactions in Treasury securities, such as perfection of a security interest and its effects and not other aspects, such as the contractual relationship between a debtor and its secured party, which are left to applicable law³. See the discussion under §357.10 of the Section-by-Section Analysis.

SECTION-BY-SECTION ANALYSIS

Section 357.0 Dual book-entry systems.

Section 357.0 sets forth that Treasury provides two systems for maintaining Treasury book-entry securities—TRADES and TREASURY DIRECT. Subpart A of part 357 of 31 CFR contains general information about TRADES and TREASURY DIRECT. Subpart B contains the TRADES regulations. Subpart C contains the TREASURY

DIRECT regulations. Subpart D contains miscellaneous provisions. Thus, in its totality, part 357 sets forth in one place the complete set of governing rules for Treasury securities issued in book-entry form.

Section 357.1 Effective date.

Section 357.1 establishes the effective date for TRADES. TRADES applies to outstanding securities formerly governed by 31 CFR part 306, subpart O. Conforming changes to parts 306, 356, and 358 are being made to coincide with the publication of TRADES in final form. Consistent with the approach set forth in Revised Article 8 (see §8-603 and the official comment thereto), on and after the effective date these regulations will apply to all transactions, including transactions commenced prior to the effective date. Revised Article 8, in Section 8-603, gave secured parties four months after the effective date to take action to continue the perfection of their security interests. TRADES, through its delayed effectiveness, provides a similar period. In TRADES, January 1, 1997, becomes the date by which such actions must be completed.

The effective date for TRADES is January 1, 1997. While TRADES is based in large part on Revised Article 8 that has received widespread attention in the financial community and already has been adopted in 28 states,⁴ Treasury has determined that TRADES will be effective on January 1, 1997, to ensure a smooth transition to TRADES. In making that determination, Treasury has taken into account the time required by other Government-Sponsored Enterprises (GSEs) to promulgate similar regulations for their securities. Such an effective date, when combined with TRADES having been published in proposed form with a 60-day comment period, should provide sufficient time for an orderly transition to the new TRADES rules.

Section 357.2 Definitions.

Section 357.2 contains definitions for use in subparts B and C. While most of the definitions are straightforward, four terms—Participant, Entitlement Holder, Security Entitlement and Securities Intermediary—are critical to an understanding of the proposed TRADES regulations.

(a) *Participant.* A Participant is a person that has a securities account relationship in

²U.C.C. Revised Article 8, Prefatory Note at 12.

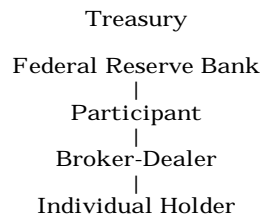
³The regulations in 31 CFR 306.118(b), which are being supplanted by TRADES, state that “applicable law” covers how a transfer or pledge is “effected” as well as perfected. Except with respect to security interests marked on the books of a Federal Reserve Bank, TRADES does not address how a security interest in a Treasury book-entry security is created or what law governs the creation of a security interest. Section 357.11(a) of TRADES, which establishes the choice of law for interests other than those covered by §357.10, addresses the choice of law with respect to the perfection, effect of perfection or non-perfection, and priority of security interests, but does not address the law governing creation or attachment of a security interest. This is consistent with the scope and choice of law provisions of Revised Article 8.

⁴As of August 1, 1996, those states are: Alabama, Alaska, Arizona, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, New Mexico, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wyoming. See discussion accompanying footnote 11.

its name with a Federal Reserve Bank. Accordingly, the Federal Reserve Bank and Treasury know both the identity of the persons maintaining these accounts and the Treasury book-entry securities held in these accounts.

(b) *Securities Intermediary.* Securities Intermediaries are persons (other than individuals, except as described below) that are in the business of holding interests in Treasury book-entry securities for others. Participants can be, and usually are, Securities Intermediaries.

In addition, entities such as clearing corporations, banks, brokers and dealers can be Securities Intermediaries in a single chain of ownership of a Treasury security. An individual, unless registered as a broker or dealer under the federal securities laws, cannot be a Securities Intermediary. As an illustration of a possible chain of ownership, in the following chart, the Federal Reserve Bank, Participant and Broker-Dealer are all Securities Intermediaries.



(c) *Entitlement Holder.* An Entitlement Holder is any person for whom a Securities Intermediary holds an interest in a Treasury book-entry security. In the above example Individual Holder, Broker-Dealer and Participant are all Entitlement Holders. Thus, a person can be both a Securities Intermediary and an Entitlement Holder. See also the commentary on "Security Entitlement."

(d) *Security Entitlement.* A Security Entitlement is the interest that an Entitlement Holder has in a Treasury book-entry security. In the example, Participant, Broker-Dealer and Individual Holder all hold Security Entitlements. The rights and property interests associated with a Security Entitlement of a Participant held on the books of a Federal Reserve Bank ("Participant's Security Entitlement") are, however, different from the rights and property interests associated with other Security Entitlements. As provided in §357.10(a), Federal law defines the scope and nature of a Participant's Security Entitlement. While TRADES is based in large part on Revised Article 8, the meaning of Security Entitlement under federal law is different than under Revised Article 8. For example, Participants have a direct claim against the United States for interest and principal even though, under state law, an Entitlement Holder would only have a claim against its Securities Intermediary for such

payment. To the extent not inconsistent with this regulation, the scope and nature of a Security Entitlement of an Entitlement Holder below the level of a Participant, (Broker-dealer and Individual Holder in the example above), is defined by applicable state law, as determined pursuant to §357.11. It should also be noted that while a Participant's rights have Federal law components under §357.10(a), the nature of a Security Entitlement held by a lower tier intermediary on the books of a Participant is determined pursuant to applicable law as provided in §357.11.

Section 357.10 Law governing the United States and Reserve Banks.

Section 357.10(a) provides that the rights and obligations of the United States and the Federal Reserve Banks (with one exception detailed below), with respect to both the TRADES system and Treasury book-entry securities maintained in TRADES are governed solely and exclusively by Federal law. Thus, claims against the United States and Federal Reserve Banks of both Participants and all other persons with an interest (or claiming an interest) in a Treasury book-entry security maintained in TRADES are governed by Federal law. Federal law is defined to include TRADES, the offering circulars pursuant to which the Treasury securities are sold, the offering announcements and Federal Reserve Bank Operating Circulars.⁵ Prior to March 1, 1993, the terms of each offering of Treasury securities, except for Treasury bills were set forth in an offering circular published in the FEDERAL REGISTER.⁶ Since March 1, 1993, all Treasury book-entry securities have been offered pursuant to a uniform offering circular set forth at 31 CFR part 356.

While TRADES is based in large measure on Revised Article 8, a fundamental principle of these regulations (and a divergence from Revised Article 8) is that the obligations of the issuer (the United States) and the Federal Reserve Banks, as well as all claims with respect to TRADES or a Treasury book-entry security against Treasury or a Federal Reserve Bank, are governed solely by Federal law. Thus, for example, those parts of Revised Article 8 that detail obligations of issuers (or their agents) of securities are not

⁵A "Federal Reserve Bank Operating Circular" is defined in §357.2 as the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Reserve Bank maintains Book-entry Securities Accounts and transfers Book-entry Securities.

⁶Treasury bills were issued pursuant to one master offering circular (31 CFR part 349, removed, and replaced by 31 CFR part 356) effective March 1, 1993. (58 FR 412)

applicable to either the United States or Federal Reserve Banks.⁷ In addition, neither the United States nor Federal Reserve Banks have any obligations to persons holding their interests in a Treasury book-entry security at levels below the level of a Participant or to any other person claiming an interest in a Treasury book-entry security (with the limited exception set out in §357.12(c)(1)). Thus, there are no derivative rights against either the United States or the Federal Reserve Banks.

In interpreting this section, it is important to note that the scope of TRADES, like that of Revised Article 8, is limited. Accordingly, the governing law set forth in §357.10(a) is applicable only to the matters set forth in §357.10(a). Other laws remain applicable and could affect the holders of book-entry securities.

For example, the tax treatment of Securities Entitlements is outside the scope of TRADES and other law (the Federal income tax code) is applicable in determining such tax treatment. Similarly, nothing in §357.10(a) limits the applicability of other laws to matters such as whether the activities of Participants or Securities Intermediaries with respect to interests in Treasury book-entry securities are subject to banking or securities laws.

While TRADES in §357.10(a) defines what law governs the contract between the United States, as issuer, and the holder of a Security Entitlement, it is not a complete statement of the contract law applicable to the United States or Federal Reserve Banks. For example, if a Participant obtains a discount window loan from a Federal Reserve Bank and agrees to pledge collateral, including Treasury book-entry securities, to the Federal Reserve Bank as security for the loan, §357.10(a) does not establish the law for determining the validity or enforceability of the contract or the law applicable to the creation and perfection of security interests in property that is not a Treasury book-entry security. Section 357.10(a) does provide the law applicable for how a security interest in Treasury book-entry securities is perfected, the priority of such interest and, if §357.12(c)(1) is applicable, how such security interest is created. Similarly, nothing in §357.10(a) affects the continuing applicability or enforceability of Federal Reserve Bank operating circulars such as the circular setting forth provisions regarding electronic access to services provided by Federal Reserve Banks and agreements executed in connection with such circulars.

⁷The regulations in subpart C of this part set out other obligations of the United States and the Federal Reserve Banks for securities held in TREASURY DIRECT. These regulations preempt applicable state law.

The law applicable with respect to interests granted to a Federal Reserve Bank depends on the manner in which the security interest is granted.

Where a security interest in favor of a Federal Reserve Bank is marked on the books of the Federal Reserve Bank under Section 357.12(c)(1), §357.10(a) establishes the applicable law. A security interest in favor of a Federal Reserve Bank would be recorded on the Federal Reserve Bank's books where, for example, the Federal Reserve Bank made a discount window loan to a depository institution and any Treasury book-entry securities provided by the depository institution as collateral have been deposited to a pledge account on the books of the Federal Reserve Bank. For a borrowing depository institution that is not a Participant, the book-entry securities used as collateral generally would be deposited to the Federal Reserve Bank pledge account by the borrowing institution's Securities Intermediary. See Hypothetical 5.

Section 357.10(b) sets forth law applicable with respect to security interests in favor of a Federal Reserve Bank that have not been marked on the books of a Federal Reserve Bank. A security interest in the Securities Entitlement of a Participant in favor of a Federal Reserve Bank that is not marked on the books of the Federal Reserve Bank is governed by the law of the state in which the head office of the Federal Reserve Bank is located. Such a security interest could arise, for example, where the delivery of book-entry securities to the securities account of the Participant results in an overdraft in the Participant's Funds Account. The extent to which the Federal Reserve Bank has an interest in the Participant's book-entry securities to secure the overdraft therefore would be determined under the law of the state in which the Reserve Bank's head office is located. If the State in which the head office of the Federal Reserve Bank is located has not adopted Revised Article 8, under §357.10(c) that State is deemed to have adopted Revised Article 8.

In certain very limited circumstances, a Federal Reserve Bank also may have a security interest in the book-entry securities of a non-Participant that is not marked on the books of the Federal Reserve Bank. Section 357.10(b) provides a separate rule for such a security interest, which would be governed by the law of the non-Participant's Securities Intermediary, as determined under §357.11. Under §357.11, the perfection, effect of perfection, and priority of a security interest created under such an agreement would be governed by the law of the Securities Intermediary's jurisdiction, as determined under §357.11(b). Under §357.11(d), if the jurisdiction specified in §357.11(b) has not adopted Revised Article 8, jurisdiction would

be deemed to have adopted Revised Article 8.⁸

For purposes of applying the state law chosen under the rules of §357.10(b), Federal Reserve Banks are treated as clearing corporations. As a result, a security interest in a Securities Entitlement of a Participant in favor of a Federal Reserve Bank under §357.12(c)(2) has the same priority as security interests granted to other clearing corporations under state law. This is consistent with the treatment accorded to Federal Reserve Banks generally under Revised Article 8.

Section 357.11 Law governing other interests.

(a) *Law governing the rights and obligation of Participants and third parties.* Section 357.11 is a choice of law rule. The substantive matters subject to this choice of law rule are set forth in §357.11(a). The matters set forth in §357.11(a) are meant to be coextensive with those matters covered by Revised Article 8 with respect to a person's interest in a Treasury book-entry security (other than those related to a person's relationship to Treasury or a Federal Reserve Bank which are governed solely by federal law). For purposes of these choice of law rules Participants are Securities Intermediaries.

Section 357.11(b) adopts Revised Article 8's general choice of law rule. Section 357.11(c) sets forth a special choice of law rule with respect to security interests perfected automatically or by filing, which also is included in Revised Article 8. Generally, the law applicable to the Securities Intermediary will govern matters involving an interest in a book-entry security held through that intermediary. This approach is not followed with respect to perfection of security interests automatically or by filing. In those cases, the law of the jurisdiction in which the debtor is located is the governing law. Since filing systems are based on the location of the debtor, this approach should reduce uncertainty and preserve the normal practice of searching records based on the debtor's location.⁹ The language "person creating a secu-

rity interest" is used in lieu of the term "debtor" in this provision to avoid any confusion. The word "debtor" has two meanings in the Uniform Commercial Code and the expression "person creating a security interest" provides clarity with respect to who is covered by this section. The term does not refer to a creditor. The language "is located" is intended to conform to its meaning under applicable law, as it may be amended from time to time. See, e.g., U.C.C. section 9-103(3)(d). Section 357.11(d) provides for the application of Revised Article 8 if the choice of law analysis required by §357.11(b) results in the choice of the law of a State that has not yet adopted Revised Article 8. As noted elsewhere, in such a situation, the State's law is viewed as if it had adopted Revised Article 8. This section also provides that, for purposes of applying state law, the Federal Reserve Banks are clearing corporations and Participants' interests in book-entry securities are Security Entitlements.

(b) *Limited scope of Federal preemption.* In an earlier TRADES proposal Treasury contemplated adopting a comprehensive regulation governing the rights of all persons in Treasury book-entry securities held in TRADES. Such an approach was proposed because Treasury believed that a uniform rule was necessary to preserve the efficiency and liquidity of the market for Treasury securities—the most liquid and efficient market in the world. Treasury believed then, and believes now, that the material rights of a holder in the United States of an interest in a Treasury security should not vary solely by virtue of such holder's geographic location or the location of the financial institution through which it holds its interest in Treasury securities. In light of Revised Article 8, Treasury has determined that it is possible to achieve this uniformity without developing an independent system of Federal commercial law.¹⁰ The questions inherent in a tiered system of ownership have been analyzed, and, in Treasury's view, satisfactorily addressed by Revised Article 8.

As of August 1, 1996, 28 states have adopted Revised Article 8 and Treasury understands that it will soon be adopted in additional states. As with all uniform laws, the adoption process takes several years. In order to assure uniformity, in light of the unavoidable delays in the state-by-state adoption process of Revised Article 8, Treasury is promulgating regulations with a limited form of preemption. As provided in both §§357.10(c) and 357.11(d), if the choice of law rules set

area, Treasury has determined that possible lack of uniformity does not justify altering state law.

¹⁰As noted previously, the substantive scope of this regulation is limited.

⁸An interest in book-entry securities of a non-Participant that is not marked on the books of the Federal Reserve Bank, while uncommon, could arise where the Federal Reserve Bank lends to a non-Participant depository institution and enters into a triparty agreement with the depository institution and its Securities Intermediary rather than requiring the deposit of the book-entry securities in a pledge account on the books of the Federal Reserve Bank through an instruction given by the non-Participant depository institution to its Securities Intermediary.

⁹The substantive effect of filing is limited and applies only in states which have adopted Revised Article 8. Since the effect of filing is a unique state law matter, in this one

forth in TRADES would lead to the application of the law of a State that has not yet adopted Revised Article 8, TRADES will apply Revised Article 8 (with conforming and miscellaneous amendments to other Articles) in the form approved by the ALI and NCCUSL. Treasury expects that these provisions will be operative only during the state-by-state adoption process and would plan to amend TRADES to delete reference to these provisions once the adoption process has been completed.

While Revised Article 8 is defined to mean the official text of Article 8 as approved by the ALI and NCCUSL, Treasury recognizes that states may make minor changes in that text when adopting Article 8. Treasury has concluded that minor changes should not prevent Revised Article 8, as adopted by a state, from being the appropriate law. In other words, if a state passes a version of Article 8 that is substantially identical to Revised Article 8, reference to Revised Article 8 (as defined) would no longer be required. Treasury has determined that the versions of Article 8 passed by 50¹¹ states that have enacted Article 8 meet this standard. Accordingly, §§357.10(c) and 357.11(d) would not be applicable if the choice of law provisions of TRADES directed a person to one of those states. As additional states adopt Revised Article 8, Treasury will provide notice in the FEDERAL REGISTER as to whether the enactments are “substantially identical” to the uniform version for purposes of these regulations and on an annual basis, the Commentary will be amended to reflect subsequent enactments. This approach represents a significantly reduced form of preemption of state law from former versions of TRADES and preserves Treasury’s preeminent interest in a uniform system of rules applicable to all holders of interests in Treasury book-entry securities.

Section 357.12 Obtaining an interest in a book-entry security.

(a) *Creation of a Participant’s Security Entitlement.* A Participant’s interest in a Treasury book-entry security is a Securities Entitlement. Section 357.12(a) provides that a

Participant’s Securities Entitlement is created when a Federal Reserve Bank indicates by book entry that a Book-entry Security has been credited to a Participant’s Securities Account. Instead of the concept of initial credit and transfer of a Treasury book-entry security, as set forth in the existing regulations, this proposal focuses on the creation of a Participant’s Securities Entitlement and, in this way, is similar to Section 8–501 of Revised Article 8.

The regulation focuses on the creation of a Participant’s Security Entitlement because Security Entitlement is the term used to describe the Participant’s interest in a Treasury book-entry security. Once a Participant obtains that interest, the regulation sets forth what that interest is. Thus, as provided in §357.10, federal law describes a Participant’s rights against the United States and the Federal Reserve Bank where it maintains its Securities Account. To the extent not inconsistent with §357.10, §357.11 describes the applicable law to determine Participants’ rights and obligations with respect to all other persons. Under these regulations, Participants can still transfer their interests in a Treasury book-entry security as they did before—by issuing a Transfer Message to the Federal Reserve Bank where they hold such interest. Transfer of interests between Participants can occur by a Participant holding such interest issuing a Transfer Message. As a result of such message, the Federal Reserve Bank will make a book entry in favor of the receiving Participant (thereby creating a Security Entitlement in favor of such Participant) and also will make a book entry deleting the initiator Participant’s interest in such Treasury book-entry security (thereby eliminating that Participant’s Security Entitlement). In addition, if authorized under applicable state law, Participants may enter into agreements with other Participants that, as to the Participants, constitute a transfer. Such action is without effect to either the United States or a Federal Reserve Bank.

(b) *Creation and priority of a Security Interest.* (i) *Security Interests of the United States.* Section 357.12(b) provides that a security interest in favor of the United States has priority over the interests of any other person in a Treasury book-entry security. The United States obtains security interests in Treasury securities as collateral to secure funds in a variety of situations such as Treasury Tax and Loan accounts; government agency funds or funds under the control of the Federal Courts held at financial institutions; and securities pledged in lieu of surety by contractors and others. The priority provided the United States in these situations is consistent with existing law.

In addition, Federal Reserve Banks do recognize on their books and records security interests in favor of the United States. In

¹¹ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

that situation, the Federal Reserve Bank will not transfer the security without the permission of the United States. This section provides that a Federal Reserve Bank may rely exclusively on the directions of an authorized representative of the United States to transfer a security and is protected in so relying. Ordinarily, an authorized representative of the United States would take such action under circumstances such as the default or insolvency of the pledgor.

(ii) *Security Interests on the books of a Reserve Bank.* Where required by Federal law or regulation or pursuant to a specific agreement with a Federal Reserve Bank, a security interest in favor of a Federal Reserve Bank or other person may be created or perfected by a Federal Reserve Bank marking its books to record the security interest under §357.12(c)(1). An example of a security interest that is marked on the books of a Federal Reserve Bank would be the pledge in favor of a Federal Reserve Bank of a Participant's book-entry securities as collateral for a discount window loan.¹² For limited categories of pledges, Federal Reserve Banks may agree to record a security interest in favor of a third party on their books. For example, in some circumstances a Federal Reserve Bank may permit the establishment of a pledge account to hold book-entry securities pledged to governmental entities other than the United States government. It is important to note that there is no obligation for either Treasury or a Federal Reserve Bank to agree to record a security interest on the books of a Federal Reserve Bank, except as required by Federal law or regulation. If they do so, the security interest is perfected when the Federal Reserve Bank records a security interest on its books. In addition, the security interest has priority over all other interests in the Treasury book-entry security except an interest of the United States.

(iii) *Other Security Interests.* As provided in §357.12(c)(2), a security interest in a book-entry security may be perfected by any method available under applicable state law, as determined under §357.10(b) or §357.11.¹³ The perfection and priority of such interests shall be governed by applicable law. Security interests under this section may include se-

curity interests in favor of a Federal Reserve Bank, such as a clearing lien or pledge by a non-participant of book-entry securities held through a Securities Intermediary where the securities have not been deposited to a Federal Reserve Bank pledge account. Consistent with Revised Article 8, a Federal Reserve Bank would be treated as a clearing corporation under the applicable state law.

If a Person perfects a security interest pursuant to §357.12(c)(2), obligations of the Treasury and the Federal Reserve Banks with respect to that security interest are limited. Specifically, unless special arrangements are agreed to by the United States or a Federal Reserve Bank pursuant to §357.12(c)(1), neither the Federal Reserve Bank nor the United States will recognize the interests of any person other than the person in whose securities account the interest in a Treasury book-entry security is maintained. This does not mean that such a security interest is invalid. Rather, it means that the creditor's recourse will be solely against the debtor Participant or other third party.

Section 357.13 Rights and obligations of Treasury and the Reserve Banks.

(a) *Adverse claims.* Section 357.13(a) sets forth the general rule that, with limited exceptions, Treasury and the Federal Reserve Banks will recognize only the interest of a Participant in a Treasury book-entry security in whose Securities Account such interest is maintained.

As noted previously, Treasury book-entry securities maintained in TRADES are held in a tiered system of ownership. The records of a Federal Reserve Bank reflect only the ownership at the top tier. Institutions maintaining a Securities Account with a Federal Reserve Bank frequently will hold interests in Treasury book-entry securities for their customers (which can include broker-dealers and other Securities Intermediaries) and in certain cases those customers will hold interests in securities for their customers. Accordingly, neither Treasury nor a Federal Reserve Bank will know the identity or recognize a claim of a Participant's customer if that customer were to present it to Treasury or a Federal Reserve Bank.

In addition, except in the limited case where a security interest is marked on the books of a Federal Reserve Bank pursuant to §357.12(c)(1), neither the Treasury nor a Federal Reserve Bank will recognize the claims of any other person asserting a claim in a Treasury book-entry security. Persons at levels below the Participant level must present their claims to their Securities Intermediary.

(b) *Payment obligations.* Section 357.13(b) contains a corollary to the rule set forth in §357.13(a). This section provides that Treasury discharges its payment responsibility

¹²Book-entry securities pledged by a non-Participant to a Federal Reserve Bank generally would be deposited by the non-Participant's Securities Intermediary to a pledge account at the Federal Reserve Bank, and therefore also would be marked on the books of the Federal Reserve Bank. See the discussion under D. (§357.10).

¹³Under both of these sections, if the state has not yet adopted Revised Article 8, the applicable law would be that state's law as it would be amended by Revised Article 8.

with respect to a security that it has issued when a Federal Reserve Bank credits the funds account of a Participant with amounts due on that security or makes payment in some other manner specified by the Participant. This is consistent with existing law and the first TRADES proposal.¹⁴ In Revised Article 8, the issuer discharges its obligations when it makes payment to an owner registered on its books. Under common commercial practice, the registered owner in the indirect system may be a clearing corporation or the clearing corporation's nominee. Although the Federal Reserve Banks are treated as clearing corporations under both Revised Article 8 and TRADES, Treasury remains liable until payment is made to, or in accordance with the instructions of, a Participant. Section 357.13(b)(2) establishes the mechanism of how Treasury book-entry securities are paid at maturity. It is intended to cover a variety of procedures, including where the proceeds of pledged securities are credited to a suspense account pending substitution or release. This paragraph makes clear that the payment takes place automatically and that, unlike with physical certificates, there is no act of presentment required by the Participant.

Section 357.14 Authority of Reserve Banks.

Section 357.14 provides that Federal Reserve Banks are authorized, as fiscal agents of Treasury, to operate the commercial book-entry system for Treasury.

Section 357.44 Notices.

Section 357.44 contains a revised version of a provision that appeared in earlier TRADES proposals. Similar to the rule in Revised Article 8 (see section 8-112), it provides where certain legal process should be directed. While providing instructions on where notice should be directed, it makes clear that the regulations do not establish whether a Federal Reserve Bank is required to honor any such order or notice.

J. HYPOTHETICALS

Hypothetical 1

TREASURY

FEDERAL RESERVE BANK

↓
PARTICIPANT

↓
DEALER

↓
INVESTOR

The first hypothetical is designed to show what law applies at different levels of the tiered book-entry system. TRADES provides

that federal law, and only federal law (defined in §357.10(a)), governs the rights and obligations of the United States and the Federal Reserve Banks (except for those matters involving Federal Reserve Banks set forth in §357.10(b)). Thus, for example, Treasury discharges its payment obligations with respect to a security it has issued in the manner described in §357.13(b). Federal law both defines the payment obligation and describes how Treasury fulfills that obligation. Those portions of Revised Article 8 dealing with issuer obligations are not applicable to Treasury or the Federal Reserve Banks.¹⁵ Similarly, with certain limited exceptions as set forth in §357.12(c)(1), Treasury and the Federal Reserve Banks will recognize only the interest of a Participant in a Treasury book-entry security in whose Security Account the interest is maintained. Accordingly, as a matter of federal law, neither Treasury nor a Federal Reserve Bank will recognize any claim by Dealer or Investor.¹⁶

In the hypothetical above, as between Participant and Dealer, Participant is the Securities Intermediary. With respect to the matters set forth in §357.11(a), the law of the Securities Intermediary's jurisdiction governs. Thus, with respect to the matters in §357.11(a), the law of Participant's jurisdiction applies as between Participant and Dealer.¹⁷ If Participant's jurisdiction, as determined under §357.11(b), has not adopted Revised Article 8, the law of Participant's jurisdiction, as it would be amended by Revised Article 8, applies. Similarly, as between Dealer and Investor, Dealer is a Securities Intermediary, with respect to the matters in §357.11(a), the law of Dealer's jurisdiction applies as between Dealer and Investor. If Dealer's jurisdiction has not adopted Revised Article 8, the law of Dealer's jurisdiction, as it would be amended by Article 8, applies.

¹⁵ As provided in §357.14, Federal Reserve Banks, among other things, effect transfers of book-entry securities between Participants' Security Accounts.

¹⁶ One comment questioned whether similar language in the March 4, 1996 release implied that, under Revised Article 8, in the above example Investor could have a claim against Participant. No such implication was intended. The only point of the language is to make it clear that Federal, not state, law governs the rights and obligations of Treasury and the Federal Reserve Banks.

¹⁷ As described in the March 4 Release, the scope of TRADES is limited. As a general rule, if a matter is not covered in §357.11(a), TRADES is not applicable. One comment questioned whether TRADES covered the creation and attachment of a security interest. The omission of creation and attachment in §357.11(a) is intentional.

¹⁴ 51 FR 8846, 8848 (March 14, 1986).

Hypothetical 2

Assume that Dealer A sells its interest in a Treasury book-entry security to Dealer B. The transaction likely would take the following form. Dealer A will instruct Participant A to transfer its interest in a Treasury security to Participant B against cash payment. Dealer B will instruct Participant B to transfer cash to Participant A against delivery of an interest in the specified securities. Participant A will instruct the Federal Reserve Bank to transfer its interest in the Treasury security to Participant B against simultaneous credit of cash. The Federal Reserve Bank will debit Participant A's security account and credit Participant B's security account and simultaneously credit Participant A's cash account and debit Participant B's cash account. Participant A will mark its books to show that it has debited Dealer A's securities account and credited Dealer A's cash account. Participant B will mark its books to show the Security Entitlement in the Treasury security in favor of Dealer B and a debit against Dealer B's cash account. Federal law, set forth in §357.12(a) provides that Participant B acquires its interest in the Treasury book-entry security when the Federal Reserve Bank indicates by book-entry that the interest in the security has been credited to Participant B's Securities Account. Pursuant to §357.11(a), but subject to §357.11(d), Participant B's jurisdiction governs Dealer B's acquisition of a Securities Entitlement from Participant B.

Hypothetical 3

TREASURY

FEDERAL RESERVE BANK

|
PARTICIPANT

Assume Participant wishes to obtain a loan from Federal Reserve Bank and, as part of the transaction, will grant Federal Reserve Bank a security interest in its Securities Entitlement with respect to Treasury book-entry securities. The transaction can be accomplished in one of two ways. Pursuant to §357.12(c)(1), the Federal Reserve Bank can mark its books to reflect the security interest. As a matter of federal law, that action creates and perfects the Federal Reserve Bank's security interest and grants the Federal Reserve Bank priority over all other claimants (other than the United States pursuant to §357.12(b)).¹⁸ A second method for

¹⁸In certain limited circumstances, a Federal Reserve Bank may enter into an agreement under which it agrees to record on its books an interest in Participant's book-entry securities in favor of a non-Participant, such as a governmental entity. Under these circumstances, the non-Participant

completing the transaction, as set forth in §357.12(c)(2), would be to take whatever actions are authorized by applicable law. In that case, applicable law is the law of the jurisdiction of the head office of the Federal Reserve Bank. If that jurisdiction had adopted Revised Article 8, it would be the law of that jurisdiction. If that jurisdiction had not adopted Revised Article 8, it would be the law of that jurisdiction as if the jurisdiction had adopted Revised Article 8. Under Revised Article 8, the Federal Reserve Bank's interest would be that of a clearing corporation.

Hypothetical 4

TREASURY

FEDERAL RESERVE BANK

| |
PARTICIPANT A PARTICIPANT
 B

Assume that Participant A wishes to borrow from Participant B and grant Participant B a security interest in its Security Entitlement in Treasury book-entry securities. As provided in §357.12(c)(2), the transaction would be completed pursuant to applicable law determined in accordance with §357.11. Although such an interest could be recorded on the books of a Federal Reserve Bank under §357.12(c)(1), Federal Reserve Banks generally do not mark their books to record this type of security interest for Participants.

Hypothetical 5

TREASURY

FEDERAL RESERVE BANK

|
PARTICIPANT A
|
DEALER A
|
BANK A

Assume that Bank A wishes to borrow from the Federal Reserve Bank and will pledge its interest in Treasury book-entry securities held at Dealer A to collateralize that loan. The transaction could be accomplished in two ways. Pursuant to §357.12(c)(1), the interest could be created and perfected on the books of a Federal Reserve Bank. Such a transaction would take

would have a perfected security interest with priority over other claimants (other than the United States under §357.12(b)). It should be noted that, as set forth in §357.12(c)(1), there is no requirement that either the United States or a Federal Reserve Bank agree to creation and perfection of a security interest in this way, except as provided in §357.12(c)(1).

place in the following fashion. Bank A could have Dealer A instruct Participant A to deposit securities to a pledge account specified by the Federal Reserve Bank. The Federal Reserve Bank likely would create an account on its books and specify that account to Bank A as the account to receive Bank A's interest in Treasury book-entry securities. Participant A, upon receiving Dealer A's instructions, would then instruct the Federal Reserve Bank to debit its account at the Federal Reserve Bank and credit the account created by the Federal Reserve Bank. The second way the transaction could take place is by any method permitted by the law of Dealer A's (Bank A's Securities Intermediary) jurisdiction. This could involve a tri-party agreement among the Federal Reserve Bank, Dealer A, and Bank A. As set forth in §357.11(b)(1), that agreement likely would specify which jurisdiction's law is to govern the transaction and could specify that such choice of law supersedes any other choice of law agreement previously entered into by Dealer A and Bank A. If Dealer A's jurisdiction has not adopted Revised Article 8, the applicable law would be the law of Dealer A's jurisdiction as it would be amended by Revised Article 8.

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